COUNCIL OF EUROPE CONSEIL DE L'EUROPE

COMMISSION EUROPEENNE POUR L'EFFICACITE DE LA JUSTICE
(CEPEJ)

# QUESTIONNAIRE POUR ÉVALUER LES SYSTÈMES JUDICIAIRES2011

## Pays : Hongrie

### Correspondant national

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# 1. Données démographiques et économiques

## 1. 1. Généralités

### 1. 1. 1. Habitants et informations économiques

**1) Nombre d'habitants (si possible au 1er janvier 2011)**

9 986 000

**2) Total des dépenses publiques annuelles au niveau national et le cas échéant, les dépenses publiques des collectivités territoriales ou entités fédérales (en €) - (Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP)**

| | Montant |
|---|---|
| Niveau national | 48 875 848 664 |
| Niveau territorial / entités fédérales (total pour l'ensemble des niveaux territoriaux/entités fédérales) | NA |

**3) PIB par habitant (en €)**

9 712

**4) Salaire moyen brut annuel (en €)**

9 291

**5) Taux de change de la monnaie nationale (zone non Euro) en € au 1 janvier 2011**

278,85

**A.1**
**Veuillez indiquer les sources des réponses aux questions 1 à 4 et, le cas échéant, tout commentaire relatif à l'interprétation des données fournies:**

1. 1st January 2011 - Hungarian Central Statistical Office (KSH)
2. Act CXXX of 2009: Budget of the Republic of Hungary for 2010
3. 1st January 2010 - Hungarian Central Statistical Office (KSH)
4. 1st January 2010 - Hungarian Central Statistical Office (KSH)
5. 3th January 2010 - Hungarian National Bank (MNB)

## 1. 2. Données budgétaires relatives au système judiciaire

### 1. 2. 1. Budgets (tribunaux, ministère public, aide judiciaire, frais)

**6) Budget public annuel approuvé pour le fonctionnement de l'ensemble des tribunaux, en € (si possible sans le budget du ministère public et de l'aide judiciaire) :**

| | | |
|---|---|---|
| TOTAL du budget public annuel approuvé pour le fonctionnement de l'ensemble des tribunaux (1 + 2 + 3 + 4 + 5 + 6 + 7) | ☑ Oui | 259 501 133 |
| 1. Budget public annuel alloué aux salaires (bruts) | ☑ Oui | 209 393 222 |
| 2. Budget public annuel alloué à l'informatisation (équipements, investissements, maintenance) | ☑ Oui | 7 532 956 |
| 3. Budget public annuel alloué aux frais de justice (frais d'expertise, d'interprètes, etc.), sans l'aide judiciaire. NB: ne concerne pas les taxes et frais à payer par les parties. | ☑ Oui | 16 030 255 |
| 4. Budget public annuel alloué aux bâtiments des tribunaux (maintenance, budget de | ☑ Oui | 26 297 344 |

| | | |
|---|---|---|
| fonctionnement) | | |
| 5. Budget public annuel alloué à l'investissement en nouveaux bâtiments (tribunaux) | | NA |
| 6. Budget public annuel alloué à la formation | ☑ Oui | 247 356 |
| 7. Autres (Veuillez préciser) | | NAP |

**7) Dans le cas où vous ne pouvez pas distinguer le budget du ministère public et de l'aide judiciaire du budget alloué à l'ensemble des tribunaux, veuillez l'indiquer clairement. Si "autres", veuillez le préciser :**

**8) Existe-t-il une règle générale selon laquelle une personne doit payer une taxe ou des frais pour intenter une procédure devant une juridiction de droit commun :**

☐ en matière pénale ?

☑ en matière autre que pénale ?

Si oui, existe-t-il des exceptions à la règle de payer une taxe ou des frais ? Veuillez préciser ces exceptions:

Act XCIII of 1990
on Duties
Exemptions
Section 56
(1) The persons granted exemption from charges pursuant to specific other legislation, or exemption from duty in accordance with this Act may not be required to pay duties. Personal duty exemption shall not apply to the successor in title of the party in question.
(2) The provisions on duty exemption shall also apply to an intervening party.
(3) Copies of records or other documents prepared by the court for ad hoc conservators and for curators ad litem shall be free of duty.
Section 57
(1) The following shall be exempt from duty in civil cases:
a) the proceedings, if the court ex officio rejects the petition therefor without the issue of a subpoena, without investigation in merito in non-judicial proceedings, or without conducting an insufficient data procedure in respect of company registration; or if the legal action is dismissed on the basis of Paragraph a) of Section 157 of CPC;
b) proceedings for remedy instituted against decisions in cases of exemption from charges and rights for the suspension of payment of duty;
c) in actions for divorce, the counter-action lodged with regard to the marriage;
d) proceedings related to the declaration of death or for having the death registered, if disappearance or death took place in consequence of an event of war or natural disaster;
e) proceedings for the registration of foundations, public foundations, non-governmental organizations, public bodies, European groupings of territorial cooperation, furthermore, proceedings for the registration of ESOP organizations established in accordance with Act XLIV of 1992 on the Employee Stock Ownership Plan and for the approval of participation in a European grouping of territorial cooperation;
f) petitions for the removal of wound-up firms from the register, including the petitions lodged in simplified dissolution procedures with the name of the receiver indicated;
g) petitions for the correction, and/or supplementation of resolutions;
h) proceedings related to the electoral roll;
i) proceedings related to changes notified upon being registered in the register of legal counsels;
j) appeals against resolutions prescribing transfer;
k) judicial review of administrative decisions adopted in indemnification cases;
l) tax consolidation procedures of municipal governments;
m) proceedings initiated by independent court bailiffs in connection with judicial enforcement proceedings, and the proceedings initiated for the enforcement of court decisions (court settlement) adopted in accordance with Council Regulation (EC) No. 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, Regulation (EC) No. 805/2004 of the European Parliament and of the Council creating a European Enforcement Order for uncontested claims, and Council Regulation (EC) No. 2201/2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No. 1347/2000;
n) proceedings instituted on the basis of favorable decision by the Constitutional Court;
o) any lawsuit in connection with the protection of personal data and access to information of public interest;
p) the judicial review of an administrative decision for the authorization of legal aid;
r) non-judicial proceedings for the review of resolutions for preliminary injunction or a temporary restraining order, or preventive injunction granted pursuant to specific other legislation in connection with domestic violence;
s) the judicial review of an administrative decision adopted concerning aid to crime victims.
(2) The following shall be exempt from duty in criminal proceedings:
a) in the proceedings described in Subsection (1) of Section 52, the appeal, petition for reopening the case and motion for review filed by the defendant and the defense counsel;
b) the proceedings described in Subsection (1) of Section 52, if the court dismisses the case prior to the commencement of personal hearing, or if the case is dismissed due to clemency;
c) the petition described in Subsection (2) of Section 54 if submitted by the defendant or the defense counsel;
d) the proceeding for the authorization of personal exemption from charges;
e) the one-time provision of copies of documents specified in Subsection (2), Paragraph a) of Subsection (5), Subsection (6) and Subsection (10) of Section 70/B of Act XIX of 1998 on Criminal Procedure to the defendant, the defense attorney or the legal representative of a minor who has been accused of a crime;
f) a copy of the accusation report provided to the accuser.
Reduced Duty
Section 58
(1) The duty shall be 10 per cent of the duty on judicial proceedings:

a) if the plaintiff withdraws his claim during the first hearing;
b) if the legal action is declared suspended during first hearing, and is dismissed as a result of suspension;
c) if the defendant acknowledges the claim during the first hearing, or satisfies the claim prior to the first hearing;
d) if the parties reach a settlement during the first hearing;
e) if the parties jointly file for dismissal during the first hearing.
(2) The duty shall be 30 per cent of the duty on judicial proceedings for a case dismissed by suspension following the first hearing, or due to the plaintiff's withdrawal, or if jointly requested by the parties.
(3) The duty shall be 50 per cent of the duty on judicial proceedings, if a settlement is concluded following the first hearing. If the parties engaged in a mediation process governed in specific other legislation after the first hearing, and the court has approved the resulting settlement, 50 per cent of the normal court costs of judicial proceedings shall be reduced by the mediator's fees, including value added tax, not to exceed 50,000 forints, provided that the mediation process is not precluded by law; in either case, the amount of duty payable may not be less than 30 per cent of the duty chargeable for judicial proceedings.
(4) If a legal action is dismissed by suspension, the court shall order the party initiating the proceedings to pay the duty.
(5) The provisions of Paragraph a) of Subsection (1) shall be duly applied in non-judicial proceedings, if withdrawal takes place prior to the announcement of the court's ruling on the merits of the case. In respect of the proceedings mentioned in Paragraph c) of Subsection (1) of Section 42, and of the judicial proceedings opened upon an order for payment procedure [second sentence of Subsection (2) of Section 42], provided that the conditions therefor are otherwise satisfied, the obligation of reduction shall apply only to the duty supplemented pursuant to Subsection (2) of Section 42.
(6) The provisions of Subsections (1)-(2) shall apply to the duty on civil claims enforced in criminal proceedings.
(7) In respect of an appeal or petition for court review, 10 per cent of the duty on appeal or petition for court review filed in civil and criminal proceedings shall be charged, if it is withdrawn prior to the commencement of the trial by the court of jurisdiction, or if withdrawn prior to the date of judgment out-of-court.
(8) The provisions of Subsections (2), (3) and (7) shall apply to the duty on cross-appeals. If the appeal is withdrawn by the submitting party following the commencement of the trial, the party submitting the cross-appeal shall only pay 10 per cent of the procedural fee.
(9) If the parties engaged in a mediation process governed in specific other legislation before the civil proceedings, the normal costs of the proceedings shall be reduced by the mediator's fees, including value added tax, that was paid by the party liable for the duty payable, not to exceed 50,000 forints, however, the amount of duty payable may not be less than 50 per cent of the normal rate of duty. No allowance may be granted if:
a) the mediation process is precluded by law, or
b) in spite of having reached a settlement agreement in the mediation process, either of the parties files charges at the court regarding the dispute settled by the said agreement, except if the charges are filed solely for the purpose of enforcement of the agreement.
(10) The procedural fee shall be 50 per cent of the normal rate of duty, if an evidentiary hearing was conducted prior to the civil action before a notary public or a court.
Right for the Suspension of Payment of Duties
Section 59
(1) Persons who have been granted the right for the suspension of payment of duties shall be exempt from the advance payment of duties. In such cases the duty shall be paid by the party so ordered by the court.
(2) The provisions on the right for the suspension of payment of duties shall also apply to intervening parties.
Section 60
(1) If advance payment of a duty is likely to impose an unreasonable burden on a person in light of his income and financial situation, such person may be granted exemption from the advance payment of duty, particularly if the amount of such duty exceeds 25 per cent of the taxable per capita income of the party and his spouse, and their dependent children living in the same household.
(2) Curators ad litem and ad hoc conservators appointed by the guardian authority, as well as parties in the interest of whom the public prosecutor or an authorized organization filed for legal action for the purpose of the enforcement of a due claim, shall be entitled to the right for the suspension of payment of duties.
Section 61
(1) A person who is to be supported by his/her parents, or who lives together with his/her spouse may only be granted the right for the suspension of payment of duties if the conditions thereof exist both in respect to such person and to the persons living together with him/her.
(2) A person whose litigation appears in bad faith or is likely to fail, may not be granted

the right for the suspension of payment of duties, even if such person acts as an assignee, and there is reason to believe that the aim of the assignment was to render litigation with the benefit of the right for the suspension of payment of duties possible.
(3) The benefit of litigation with the right for the suspension of payment of duties may be granted to third country nationals described in the Act on the Admission and Right of Residence of Third-Country Nationals only by virtue of an international convention signed by the State of Hungary, or in the event of reciprocity. As to whether reciprocity applies shall be determined by the minister in charge of the judicial system.
(4) No right for the suspension of payment of duties may be permitted:
a) in connection with actions filed for divorce;
b) in company registration proceedings;
c) in the proceedings described in Section 54.
Section 62
(1) The parties shall be entitled to the right for the suspension of payment of duties, irrespective of their income and financial conditions:
a) in labor disputes, if instituted in connection with damages caused by willful or grave negligence of an employee or with the liability of an executive employee for damages in accordance with the provisions of civil law; furthermore, in respect to the part in excess of the amount due by law in actions for severance pay, if it is more than twenty-times of the minimum wage;
b) in claims for compensation for damages in connection with any injury caused to the life, physical integrity or health, or to the financial assets of a person, when the life, physical integrity or health of the person was also put in jeopardy;
c) in claims for compensation for damages originating from criminal offenses, not including any injury to the life, physical integrity or health of another person, and infractions;
d) in domestic proceedings, with the exception of actions for divorce, as well as pecuniary claims awarded in domestic proceedings;
e) in suits for the termination of the right of bearing a name;
f) in actions in connection with the protection of persons under civil law;
g) in actions for compensation for damages caused within administrative authority;
h) in proceedings for the review of administrative resolutions;
i) in liquidation proceedings opened in connection with wages and other emoluments owed under contract of employment and in court proceedings instituted by a temporary administrator, liquidator or financial trustee under bankruptcy proceedings or liquidation proceedings, and in the debt consolidation proceedings of municipal governments;
j) in civil court and non-judicial (enforcement) proceedings instituted in connection with inventions, utility models, innovations, industrial design rights, topographies, know-how, and/or assistants' fee by inventors of inventions and utility models, innovators, authors of industrial designs and topographies, as well as assistants;
k) in proceedings instituted by housing cooperatives against their members or non-member owners, and condominium associations against their owners for the refund of operational, renovation or common maintenance costs;
l) in legal actions filed against the State for the enforcement of indemnification claims in connection with a criminal proceeding;
m) in lawsuits for damages filed in consequence of any violation of the plaintiff's fundamental rights to a fair trial and/or to conclude court proceedings within a reasonable period of time;
n) in actions filed for the annulment of contracts for the transfer of residential properties of private individuals;
o) in lawsuits filed against any reference data provider or the financial enterprise operating the central credit information system as set out in specific other legislation, in connection with the transmission and processing of data in the central credit information system, or launched for the correction or erasure of reference data;
p) in proceedings opened for the correction of any particular entry that was registered ex officio relying on erroneous information, or if the entry contains any other type of error, or in proceedings opened to determine that an authority or court failed to comply with the obligation to forward any data registered ex officio in the companies register;
r) in non-judicial proceedings for the review of rulings adopted in administrative proceedings.
(2) In respect of the actions described in Paragraphs a)-c), g)-h) and l) of Subsection (1), the court may disregard to order the party to pay duty in the case of the partial loss of the action, if the amount of the award is to be determined at the court's discretion and if the amount requested was not manifestly exaggerated.
(3) In liquidation proceedings opened in connection with wages and other emoluments owed under contract of employment as specified in Paragraph i) of Subsection (1), the court shall provide for the payment of the duty in its ruling for terminating the proceedings or for the opening of liquidation proceedings.

**9) Montant annuel des taxes ou frais judiciaires perçus par l'Etat (en €)**

11 217 800

**10) Budget public annuel approuvé et alloué à l'ensemble du système de justice, en € (ce budget n'inclut pas seulement le budget approuvé pour le fonctionnement de l'ensemble des tribunaux comme défini à la question 6, mais aussi le système pénitentiaire, la protection judiciaire de la jeunesse, le fonctionnement du ministère de la Justice, etc.)**

. ☐ NA 1 604 399 373

**11) Veuillez préciser les éléments composant le budget de l'ensemble du système de justice.**

**Si "autre", veuillez préciser dans la case "commentaire" ci-dessous.**

| | |
|---|---|
| Système des juridictions | Oui |
| Aide judiciaire | Oui |
| Ministère public | Oui |
| Système pénitentiaire | Oui |
| Service de probation | Oui |
| Conseil de la justice | Oui |
| Protection judiciaire de la jeunesse | Non |
| Fonctionnement du ministère de la justice | Oui |
| Services des demandeurs d'asile et réfugiés | Oui |
| Autres | Oui |

Commentaire :
Other: Compensation to crime victims - 473 373EUR

**12) Budget public annuel approuvé et alloué à l'aide judiciaire, en € - Si une ou plusieurs données ne sont pas disponibles, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.**

| | Total du budget public annuel approuvé et alloué à l'aide judiciaire (12.1 + 12.2) | 12.1 Budget public annuel alloué à l'aide judiciaire en matière pénale | 12.2 Budget public annuel alloué à l'aide judiciaire en matière autre que pénale |
|---|---|---|---|
| Montant (en €) | 304823 | NA | NA |

**13) Budget public annuel approuvé et alloué au Ministère public (en €). Veuillez ajouter dans la boîte "commentaire" ci-dessous toute information utile à l'interprétation des données.**

. ☑ Montant 102 321 320

Commentaire :
Act CXXX of 2009: State Budget of the Republic of Hungary for 2010

**14) Instances formellement responsables des budgets alloués aux tribunaux (réponses multiples possibles) :**

| | Préparation du budget global des tribunaux | Adoption du budget global des tribunaux | Gestion et répartition du budget entre les tribunaux | Evaluation de l'utilisation du budget au niveau national |
|---|---|---|---|---|
| Ministère de la justice | Non | Non | Non | Non |
| Autre ministère | Non | Non | Non | Non |
| Parlement | Non | Oui | Non | Oui |
| Cour Suprême | Non | Non | Non | Non |
| Conseil Supérieur de la Magistrature | Oui | Non | Oui | Non |
| Tribunaux | Oui | Non | Oui | Non |
| Organisme | | | | |

| | | | | |
|---|---|---|---|---|
| d'inspection | Non | Non | Non | Oui |
| Autre | Non | Non | Non | Non |

**15) Si autre ministère et/ou organisme d'inspection et/ou autre, veuillez préciser (au regard de la question 14) :**

Inspection body: Court of Auditors

**A.2**
**Vous pouvez indiquer ci-dessous :**
**- tout commentaire utile pour l'interprétation des données indiquées dans ce chapitre**
**- les caractéristiques de votre système budgétaire et les réformes majeures mises en œuvre au cours des deux dernières années**
**- si possible un organigramme avec une description des compétences des différentes instances responsables des procédures budgétaires**

Question 6#2#3 : Auparavant il y avait une campagne de computerisation qui s'est achevé, donc à cause de cela la somme de 2008 était beaucoup plus haute qu'en 2010.

Question 6#2#4 : La variation spéctaculaire entre 2008 et 2010 est motivée par un changement légal survenu en 2009 (la loi LXXV de 2009, a partir de 1 octobre 2009) concernant l'augmentation de frais d' expertises.

Question 6#2#5 : Concernant le budget alloué aux bâtiments. Etant donné que beaucoup d'édifices sont en très mauvais état, dans le budget - pour la première fois depuis longtemps - on a alloué une somme augmentée. Egalement on va créer des nouveaux tribunaux aussi, dans la capitale. Donc le budget devait être augmenté.

Question 10 : En 2008 le Ministere de la Justice était ensemble avec la Police, ainsi le budget annuel était beaucoup plus important.

Question 10 : Budget public annuel approuvé et alloué à l'ensemble du système de justice, en € (ce budget n'inclut pas seulement le budget approuvé pour le fonctionnement de l'ensemble des tribunaux comme défini à la question 6, mais aussi le système pénitentiaire, la protection judiciaire de la jeunesse, le fonctionnement du ministère de la Justice, etc.)

**Veuillez indiquer les sources des réponses aux questions 6, 9, 10, 11, 12 et 13.**

6.-9.-10.-11.-12.-13.Act CXXX of 2009: State Budget of the Republic of Hungary for 2010

# 2. Accès à la justice et à l'ensemble des tribunaux

## 2. 1. Aide judiciaire

### 2. 1. 1. Principes

**16) L'aide judiciaire concerne-t-elle :**

| | Affaires pénales | Affaires autres que pénales |
|---|---|---|
| Représentation devant les tribunaux | Oui | Oui |
| Conseil juridique | Oui | Oui |

**17) L'aide judiciaire prévoit-elle la couverture ou l'exonération des frais de justice?**

- (•) Oui
- ( ) Non

Si oui, veuillez préciser:

Legal aid does not include the full coverage of court fees, only regarding the fee of the lawyer granted by the justice service. This kind of legal aid is granted by the justice service's decision based upon either the evaluation of the client's overall income and assets or the personal exemption of costs and fees, which is granted by the court. The legal aid system consists of covering court fees and the service of an attorney at law for free.
12. If I qualify for legal aid, will this cover all the costs of my trial?

This mainly depends on what kind of benefit the applicant receives:

a) In civil proceedings cost benefits may be the following based on their content:

* exemption from costs is the broadest category: it includes exemption from court charges, exemption from advance payment and costs to be borne during the proceedings and the opportunity to request the appointing of a court-appointed lawyer,
* exemption from court charges is a narrower category than exemption from costs: through it the party is exempted from the obligation to pay court charges but is not entitled to receive further benefits going together with exemption from costs,
* in the case of right to levy registration the party enjoying this right may only be exempted from paying the charges in advance, and in such a case the party obliged by court will have to pay the charges after the proceedings are over.

Exemption from costs, exemption from charges and the right to levy registration do not concern the costs of a trial to be borne by the adversary and the obligation to refund the charges paid and the costs paid in advance (enforcement costs) by the parties in the enforcement process.

b) In the course of the criminal proceedings if it is probable that, due to his/her income or financial situation, the accused will not be able to pay the costs of the proceedings and he/she certifies this, the court or the prosecutor decides on the authorisation of personal exemption of costs for the accused the request of the accused or his/her defence attorney. If the personal exemption from costs is authorised:

* at the request of the accused the court, the prosecutor or the investigating authority appoints a defence attorney,
* no court charges have to be paid for providing the copies of the documents of the criminal case for the accused and his/her appointed defence attorney on one occasion,
* the state bears the fees and certified out-of-pocket costs of the court-appointed lawyer.

13. If I qualify for partial legal aid, who will pay the other costs?

Since the current legislation does not distinguish between partial or full exemption from costs at court proceedings, if the court authorises exemption from costs, than this covers all the costs of a trial - with the exceptions in point 12.

14. If I qualify for legal aid, will it cover any review I might make following the trial?

If legal aid is authorised it extends to all phases of the proceedings, including the appeals procedure and enforcement on the basis of the proceedings.
15. If I qualify for legal aid, can it be withdrawn before the end of the trial (or even after the trial)?

a) In civil proceedings the court checks whether the conditions for eligibility for legal aid are still met as follows:

* until the final decision in the proceedings, annually on the basis of the date of the authorisation,
* before the issuing of the enforceable document, if already a year has passed since the final decision in the proceedings, and
* at any time during the proceedings - including the decision on the request for review - if data comes to light concerning the fact that the conditions were not fulfilled at the time of authorisation or at a later stage in the proceedings.

During the review the court revokes the aid if the party does not comply with what has been stated in the call of the court or if in the course of the review the court establishes that the applicant is no longer eligible.

b) During the criminal proceedings the accused receiving legal aid or the substitute private prosecutor must report all changes in his/her own or his/her dependant's income and financial situation - except where the income decreases or is no longer received - and all changes in his/her personal circumstances that concern the conditions of

authorisation. The court and the prosecutor, on the basis of the statement but at least yearly, shall check whether the conditions for personal exemption from costs are still met. The court or, in the case of an accused, before the indictment the prosecutor, may review the eligibility for legal aid of its own motion if data comes to light to suggest that the conditions were not fulfilled at the time of authorisation or at a later stage in the proceedings.

If it emerges from the review that the conditions for legal aid were not fulfilled, the prosecutor before the indictment, or, in the case of a substitute private prosecutor, the court thereafter shall revoke it.

**18) Est-il possible de bénéficier de l'aide judiciaire pour des frais relatifs à l'exécution des décisions de justice (par exemple : honoraires d'un agent d'exécution) ?**

- ○ Oui
- ◉ Non

Si oui, veuillez préciser:

The scope of legal aid apply also in the enforcement proceedings, however, concerning only the fee of the legal aid provider.
Exemption from costs, exemption from charges and the right to levy registration do not concern the costs of a trial to be borne by the adversary and the obligation to refund the charges paid and the costs paid in advance (enforcement costs) by the parties in the enforcement process.

**19) L'aide judiciaire peut-elle être allouée pour d'autres frais (différents de ceux indiqués aux questions 16 à 18, par exemple honoraires d'un conseiller technique ou expert, honoraires d'autres professionnels de la justice (notaires), frais de voyage, etc.) ? Si oui, veuillez préciser dans la boîte "commentaire" ci-dessous.**

| | Affaires pénales | Affaires autres que pénales |
|---|---|---|
| | Non | Non |

Commentaire :

**20) Nombre d'affaires portées devant les tribunaux et ayant bénéficié de l'aide judiciaire. Veuillez préciser dans la boîte "commentaire" ci-dessous, le cas échéant. Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.**

**[Cette question porte sur le nombre annuel de décisions octroyant l'aide judiciaire aux justiciables qui ont saisi un tribunal. Elle ne concerne pas le conseil juridique fourni pour des affaires qui ne sont pas portées devant un tribunal.]**

| | Nombre |
|---|---|
| Total | 8003 |
| en matière pénale | 276 |
| en matière autre que pénale | 7727 |

Commentaire :

**21) En matière pénale, les personnes n'ayant pas les moyens financiers suffisants peuvent-elles bénéficier de l'assistance gratuite (ou financée par un budget public) d'un avocat ? Veuillez préciser dans la boîte "commentaire" ci-dessous.**

| | |
|---|---|
| Personnes mises en cause | Non |
| Victimes | Oui |

Commentaire :

Representation by an advocate may be granted to victims, civil suitors and private parties, whereas, personal exemption from costs and fees as well as representation by an advocate may be granted to substitute civil suitors.

**22) Si oui, ont-elles le libre choix de l'avocat dans le cadre de l'aide judiciaire?**

- [x] Oui
- [ ] Non

**23) Votre pays procède-t-il à un examen des revenus et/ou des biens (patrimoine) du demandeur avant d'octroyer l'aide judiciaire ? Veuillez ajouter dans la boîte "commentaire" ci-dessous les informations utiles à l'interprétation des données fournies.**
**Si un tel système existe, mais que les données ne sont pas disponibles, veuillez indiquer NA. Si un tel système n'existe pas, veuillez indiquer NAP.**

| | montant du revenu (si possible pour une personne) en € | valeur des biens (patrimoine) en € |
|---|---|---|
| en matière pénale | 1226 | NA |
| en matière autre que pénale ? | 3697 | NA |

Commentaire :
According to the Act LXXX of 2003 on Legal Aid, the State shall pay the fee of legal services in lieu of an applicant if his/her monthly net income (wage, pension, or other cash allocations paid to him/her on a regular basis) does not exceed the current minimum old-age pension, which amount is currently 28.500 HUF (~100 EUR) , and he/she has, taking account of the provisions of Section 9, no property. This evaluation method is applied for civil and criminal cases as well. However, in civil procedures and in case of legal advice, there is possible to grant legal aid, if the applicant's monthly net income is above this referred minimum old-age pension. In this case, the State shall advance the fee of legal services and the client has to pay it back within a period of maximum one year. The legal aid can be granted with these conditions, if the applicant's monthly net income is above the minimum old-age pension, but does not exceed the 43% of the gross domestic average wage of the second year prior to the current year, and he/she has no property.
In the calculation of the amount of income available, the income of persons sharing the same household with the applicant shall also be taken into account, except when such persons are adverse parties in a legal debate or government procedure with the applicant, and that amount shall be divided by the number of those living together with him/her.
The aforementioned Section 9 and its subsections (1) and (2) define the items of property could not be taken into consideration. In particular, the following items:
a) customary necessaries and furnishings;
b) real estates of the applicant that serve for his/her residential purposes, and those of his/her dependants;
c) vehicle used by the applicant if he/she is with limited mobility, or without which he/she would become unable to practise his/her profession; and
d) items of property necessary for the earning of the income specified in Sections 5 and 6, respectively.
For the purposes of this rule, no account may be taken of assets, the use of which would result in a loss disproportionately exceeding the benefits that could be achieved through the taking advantage of the legal service.
In some special circumstances specified in Section 5 subsection (2) there is no need to evaluate the financial situation of the applicant, because he/she shall be considered being in lack of financial means. These cases are the following, the applicant:
a) receives regular social benefit;
b) receives public health provision, or whose entitlement to medical services has been established; or
c) is a homeless person spending nights at temporary lodgings;
d) is a refugee or temporarily protected person or a person seeking recognition as a refugee or temporarily protected person, and, on the basis of the statement he/she has made concerning his/her pecuniary situation and earning status, is entitled to the care and benefits he/she has been granted;
e) is an applicant for visa, residence permit or permanent residence permit or in a naturalization procedure in the course of an immigration procedure and whose ascendant is/was of Hungarian national;
f) cares a child in his/her family and therefore receives regular child protection allowance;
g) is according to the Section 46. of the 4/2009. EC directive entitled for the legal aid specified in Section 56.
The State also shall pay the fee of legal services in lieu of an applicant if the single and resourceless applicant's monthly net income does not exceed 150% of the current minimum old-age pension.

**24) En matière autre que pénale, est-il possible de refuser l'aide judiciaire pour absence de bien-fondé de l'action (par exemple pour caractère abusif de l'action en justice ou en raison de l'absence d'un éventuel succès) ?**

- (•) Oui
- ( ) Non

Si oui, veuillez expliquer les critères concrets pour refuser l'aide judiciaire :

The possibility to deny legal aid for lack of merit of the case (frivolous action, no chance of success) applies in litigous cases only.

**25) La décision d'accorder ou de refuser l'aide judiciaire est-elle prise par :**

- ☐ le tribunal ?
- ☑ une instance extérieure au tribunal ?
- ☐ une instance mixte (tribunal/organe externe)?

**26) Existe-t-il un système privé d'assurance protection juridique permettant aux personnes physiques (cela ne concerne pas les entreprises ou autres personnes morales) de financer une action en justice ?**

- ◉ Oui
- ○ Non

Le cas échéant, veuillez donner des indications sur le développement actuel de ce type d'assurance dans votre pays; s'agit-il d'un phénomène grandissant ?

According to our experiences, this kind of insurance is not a well-known one in Hungary, only 1,5% of the households have some kind of legal insurance. Currently only 4 insurance company provide similar products, so there is a growing potential in this segment.

**27) La décision judiciaire peut-elle porter sur la manière dont les frais de justice payés par les parties au cours de la procédure seront partagés:**

| | |
|---|---|
| en matière pénale ? | Yes |
| en matière autre que pénale ? | Yes |

**B.1**
**Vous pouvez indiquer ci-dessous :**
**- tout commentaire utile pour l'interprétation des données indiquées dans ce chapitre**
**- les caractéristiques de votre système d'aide judiciaire et les réformes majeures mises en œuvre au cours des deux dernières années**

**Veuillez indiquer les sources des réponses aux questions 20 et 23:**

Q20: Official statistics of the Justice Service of Ministry of Public Administration and Justice;

Q23: Act LXXX of 2003 on Legal Aid

## 2. 2. Usagers des tribunaux et victimes

### 2. 2. 1. Droit des usagers et victimes

**28) Existe-t-il des sites/portails Internet officiels (ex: ministère de la Justice, etc.) à partir desquels le public a accès gratuitement :**
**----------**
**Les sites internet mentionnés pourraient figurer notamment sur le site internet de la CEPEJ. Veuillez préciser dans la boîte "commentaire" ci-dessous quels documents et informations sont inclus aux adresses concernant "autres documents" :**

| | | |
|---|---|---|
| ☐ aux textes juridiques (codes, lois, règlements, etc.) ? adresse Internet: | ☑ Oui | https://kereses.magyarorszag.hu/jogszabalykereso |
| ☐ à la jurisprudence des hautes juridictions ? adresse Internet: | ☑ Oui | http://www.birosag.hu/engine.aspx?page=anonim, http://www.lb.hu |
| ☐ à d'autres documents (par exemple le téléchargement de formulaires, l'enregistrement en ligne) ? | ☐ Oui | |

Commentaire :
Compensation to crime victims: the necessary form can be downloaded from the Internet:

http://www.kih.gov.hu

**29) Votre système prévoit-il une obligation d'informer les parties concernant les délais prévisibles de la procédure judiciaire?**

- (●) Oui
- ( ) Non

Si oui, veuillez préciser:
Only in criminal procedures. The summoning needs to refer to the foreseeable timeframe (mentioning the hours) of the procedural activity taken for a basis of the summoning.

**30) Existe-t-il un système d'information spécifique, public et gratuit, pour informer et aider les victimes d'infractions?**

- (●) Oui
- ( ) Non

Si oui, veuillez préciser:

http://www.kih.gov.hu/alaptev/aldozatsegito
The Hungarian Victim Support Service

The Hungarian Parliament passed Act CXXXV of 2005 on Crime Victim Support and State Compensation (hereinafter Act) on the 29th of November 2005. On the basis of equity and social solidarity the Act aims at providing services for those whose financial, social, physical and psychological conditions have deteriorated as a result of a crime.

Victim of Crime

Victim can be any natural persons who has suffered injuries as a direct consequence of criminal acts, in particular bodily or emotional harm, mental shock or economic loss.

Victims can be entitled to victim assistance if the crime was committed on the territory of Hungary and the persons are

* Hungarian citizens,
* citizens of any EU Member State,
* citizens of any non-EU country lawfully residing in the territory of the European Union,
* stateless persons lawfully residing in the territory of the Republic of Hungary,
* victims of trafficking in human beings, and
* any other persons deemed eligible by virtue of international treaties concluded between their respective states of nationality and the Republic of Hungary or on the basis of reciprocity.

According to the Act victim assistance is provided by the county offices of the Office of Justice Victim Support Service. Victim assistance covers victim support (facilitate the protection of victims' interests, grant instant monetary aid and provide legal aid) and state compensation. Our offices give widespread information and advice to anybody.

The financial forms of assistance aim only the mitigation of damages, we can not compensate all damages of the victim.

Information and advice

The Victim Support Service’s county offices give information and advice on

* the rights and obligations the victim has in criminal proceedings,
* the forms of support available to the victim and the conditions for application therefor,
* any available benefits, allowances and opportunities to assert the victims’s rights other than those provided for herein,
* the contact details of state, local government, civil and church organizations involved in helping victims of crime, and
* the opportunities to avoid secondary victimization with a view to the type of the criminal act.

The protection from secondary victimization means the victim’s protection from further physical, psychological and pecuniary damages.

Victim support

The victims of any type of crime can be entitled to victim support in order to facilitate the protection of the victim’s interest, to legal aid and to instant monetary aid.

* Facilitate the protection of victims’ interests

The Victim Support Service helps to facilitate the enforcement of the victim’s fundamental rights, to have resort to health care, social security and social benefits. In order to be entitled to this aid the application form has to be submitted within six months after the crime was committed.

* Legal aid

If the Victim Support Service states that someone is victim of a crime, the Legal Aid Service advances the fees of the legal aid for those whose net monthly income does not exceed the wage of HUF 159.100 in 2009. In order to be entitled to this support you application form has to be submitted within six months after the crime was committed.

* Instant monetary aid

Instant monetary aid covers the victim's extraordinary expenses in connection with housing, clothing, nutrition and travel, medical and funeral expenses in the event where he/she is unable, as a consequence of being victimized, to cover such expenses. Victim Support Services may give a maximum of HUF 79.550 in 2009. The application form for this support has to be submitted within three working days after the crime was committed.

The Victim Support Service shall not provide services for a crime victim who

* has already been granted the support applied for in an earlier phase of his/her case,
* had provided false information in a previous application for victim support services, for a period of two years following the operative date of the relevant resolution ,
* obstructs the examination aimed at verifying the data furnished in his/her application for support,
* had obstructed the examination aimed at verifying data furnished in a former application for support, for a period of two years following the operative date of the relevant resolution ,
* has failed, although he/she would have been obliged, to repay to the State the amount of monetary aid or the fee of legal assistance granted hereunder.

State compensation

* Those indigent victims are entitled to state compensation who suffered an intentional and violent act, unlawful in terms of criminal law, and as a result their physical integrity or health has been seriously damaged.

* Furthermore, compensation can be provided to a natural person who was living at the time of the crime with the victim as a domestic partner and was a next of kin, adoptive parent, foster parent, adopted child, foster child, spouse or a common-law spouse of a deceased or an injured party. Furthermore, compensation can be provided to a natural person whom the victim is or was obliged to maintain pursuant to the provisions of a legal regulation, an enforceable court order or official decision or a valid contract.
* Victims also have to be indigent to be entitled to compensation. Indigence is defined by the income position of the applicant. Based on income position, the applicant shall be considered as indigent if his/her income (in the case of persons living in a common household the per capita income) does not exceed HUF 159.100 in 2009. If the victim is participating in a refugee procedure in Hungary, his/her state of indigence is a presumption of law.

The application form for state compensation has to be submitted to any county office within three month after the crime was committed. The office helps to fill the form and transmits it to the deciding authority, the Budapest Office of Victim Support Service.

The citizens of the EU can also submit the application form in their Member State of residence. Compensation shall be paid for these victims also by the Hungarian Victim Support Service.

The sum of state compenstation can be

* lump-sum payment if it aims at compensating pecuniary damages or
* regular monthly installments if it aims at compensating the diminuation of regular income.

The lump-sum payment's maximum amount is HUF 1.193.250 in 2009.

Allowance may be given for the period of three years with the maximum sum of HUF 79.550 in 2009 monthly.

The payment of allotments to a victim shall be terminated if

*
o the victim’s eligibility for regular social services or pension insurance benefits has been officially established with a view to the crime, and disbursement of such benefits commenced,
o the victim has been granted annuity payments for damages by a non-appealable court order, and disbursement of such annuity has commenced,
o an insurance company starts disbursing annuity benefits to the victim,
o the victim’s disability to work came to an end, or
o the victim was absent from the compulsory expert medical examination without proper justification.

A crime victim shall be deemed ineligible for compensation if

a) any of the grounds for ineligibility set forth in Section 5 applies,

b) he/she failed to enforce his/her social security or other insurance claim arising from the crime, or he/she enforced his/her claim for damages or insurance claim and he/she was fully compensated for his/her damages (including payments made by any foreign state, insurance company or non-governmental victim protection organization) by the time of submission of the application for state compensation,

c) his/her behavior gave reason for the commission of the crime, or was instrumental in the occurrence of the loss as is established by the final court verdict,

d) his/her own actionable conduct caused the damage, or was instrumental in the occurrence thereof as is established by the final court verdict,

e) he/she declined to testify without cause in the criminal proceedings opened as a result of the crime giving rise to compensation, or failed to meet his/her obligation of cooperation in the expert examination, or a fine for contempt was imposed on him/her by a final judgment for non-compliance with summons,

f) he/she failed to meet his/her obligation of cooperation in the medical and professional examination conducted under the compensation proceedings or to furnish any requested supplementary information or was absent from the hearing without cause,

g) he/she failed to submit a civil motion that is necessary for the criminal proceedings,

h) he/she committed during criminal proceedings opened as a result of, or in relation to, the crime giving rise to compensation any of the following criminal acts:

1. false accusation (Sections 233 to 236 of the Criminal Code),

2. misleading of authority (Section 237 of the Criminal Code),

3. perjury (Sections 238 to 241 of the Criminal Code),

4. subornation of perjury (Section 242 of the Criminal Code),

5. obstruction of justice (Section 242/A of the Criminal Code),

6. suppressing extenuating circumstances (Section 243 of the Criminal Code),

7. aiding and abetting (Sections 244 of the Criminal Code),

8. breaking of seals (Section 249 of the Criminal Code),

9. violent offence or offence causing public danger against the offender or a relative of the offender

as is established by final court verdict.

In order to get help from the Victim Support Service a certificate issued by either the

police, the public prosecutor's office or the court is required. If the victim cannot provide the certificate it must be obtained by the Service.

In the said certificate either the police, the public prosecutor or the judge certifies that either a report has been made or an investigation or criminal procedure has been commenced in the case.

**31) Existe-t-il des modalités favorables particulières applicables aux catégories de personnes vulnérables suivantes, au cours des procédures judiciaires. Si "autres personnes vulnérables" et/ou "autres modalités particulières", veuillez le préciser dans la boîte "commentaire" ci-dessous.**

**[Cette question ne concerne pas la phase d'investigation par la police et elle ne concerne pas l'indemnisation des victimes d'infractions traitée aux questions 32 à 34.]**

| | Dispositif d'information | Modalités particulières pour les audiences | Autres |
|---|---|---|---|
| Victimes de viol | Non | Oui | Non |
| Victimes du terrorisme | Non | Non | Non |
| Enfants (témoins ou victimes | Non | Oui | Non |
| Victimes de violence domestique | Non | Non | Non |
| Minorités ethniques | Non | Non | Oui |
| Personnes handicapées | Non | Oui | Non |
| Délinquants mineurs | Oui | Oui | Non |
| Autres (par exemple, les victimes de la traite des être humains) | Non | Non | Non |

Commentaire :
ethnic minorities: use of mother tongue

**32) Votre pays dispose-t-il d'une procédure d'indemnisation des victimes d'infractions ?**

- (●) Oui
- ( ) Non

Si oui, pour quels types d'infractions
Compensation for damages is payable only to natural persons who have suffered a violent intentional crime against their person.

**33) Si oui, cette procédure d'indemnisation consiste-t-elle en:**

- [x] un dispositif public ?
- [x] des dommages et intérêts à payer par la personne responsable (par décision du tribunal) ?
- [ ] un dispositif privé ?

**34) Existe-t-il des études permettant d'évaluer le taux de recouvrement des dommages et intérêts prononcés par les juridictions pour les victimes ?**

- (●) Oui
- ( ) Non

Si oui, veuillez préciser le taux de recouvrement, le nom des études, la fréquence des études et l'organe responsable :

The issue of victim compensation in criminal proceedings has been addressed by several authors in the past ten years:
Tünde A. BARABÁS: Compensation of victims. In: Acta Humana, 1997/26.
József VIGH: Means of indemnification against damages in the Hungarian criminal justice system. In: Jogelméleti szemle, 2003/2.
Ilona GÖRGÉNYI: Indemnification by the state, restitution by the offender and endeavours for restorative justice. In: A viktimológia alapkérdései, negyedik fejezet (The basic issues of victimology, Ch. IV), 2004.
Erika RÓTH: The position of the injured party in criminal proceedings. In: Áldozatsegítés Európában 2004 (Victim support in Europe 2004). The 2005 publication of the Ministry of Justice.
Anna KISS: The role of the adhesion procedure in criminal proceedings. In: Kriminológiai Tanulmányok (Studies in Criminology) 2005/42.
It must be noted that a comprehensive research on „The role of the injured party in criminal proceedings" is being carried out by the National Institute of Criminology (an institute of the Attorney General's Office).

**35) Le procureur a-t-il un rôle spécifique au regard des victimes (protection et assistance) ?**

- (●) Oui
- ( ) Non

Si oui, veuillez préciser :

Section 51 of the Act on the Criminal Code: "the victim shall be entitled to a) be present at the procedural actions 8unless provided otherwise by this Act) and to inspect the documents affending him or her in the course of procedure, b) make motions and objections at any stage of the procedure, c) receive information from the prosecutor and the investigating authority concerning his or her rights and obligations during the criminal proceedings, c) file for legal remedy in the cases specified in this Act."
The prosecutor ensure the protection of rights of the persons – including victims - involving into criminal procedure. (Section 1 of the Act on the Prosecution Service)

**36) Les victimes d'infractions peuvent-elles contester une décision du procureur de classer une affaire?**
**----------**
**Veuillez vérifier la cohérence de votre réponse avec celle de la question 105 qui traite de la possibilité pour un procureur "de classer une affaire sans suite, sans avoir besoin d'obtenir une décision du tribunal".**

- (●) Oui
- ( ) Non
- ( ) NAP (le procureur ne peut pas décider de classer une affaire de son propre chef. Une décision judiciaire est nécessaire)

Le cas échéant, veuillez préciser :

There are cases where private prosecution or supplementary private prosecution is allowed. If so, the court notifies the victim of the decision of the public prosecutor, and the victim has 30 days from the receipt of the notification to declare whether (s)he intends to go on with the case as a private or supplementary private prosecutor.

### 2. 2. 2. Confiance des citoyens dans leur justice

**37) Existe-t-il un système d'indemnisation pour les usagers dans les circonstances suivantes :**

- [x] durée excessive de la procédure ?
- [x] non exécution des décisions de justice?
- [x] arrestation injustifiée ?
- [x] condamnation injustifiée ?

Le cas échéant, veuillez fournir des renseignements concernant la procédure d'indemnisation, le nombre d'affaires, le résultat des procédures et le dispositif actuel permettant de calculer le montant de l'indemnisation (par exemple, le tarif journalier pour une arrestation ou une condamnation injustifiée) :

In civil procedure there is a possibility of requesting the reopening of the case.

In criminal cases according to the related code :
Section 580 (1) Pre-trial detention and temporary involuntary treatment in a mental institution shall be subject to compensation, if
I. the investigation was terminated because
a) the action does not constitute a criminal offence,
b) it cannot be ascertained from the data of the investigation that the criminal offence has been committed,
c) it was not the suspect who committed the criminal offence, or it cannot be ascertained from the data of the investigation that the criminal offence has been committed by the suspect,
d) a ground for the preclusion of punishability exists,
e) the procedure cannot continue due to statutory limitation,
f) a final court verdict has already been delivered on the action;
II. the court
a) has acquitted the defendant,
b) has terminated the procedure due to statutory limitation of punishability, dropping the charges or because a final ruling has been delivered in the case.
(2) Notwithstanding subsection (1), no compensation shall be paid if the defendant
a) has escaped, or has attempted to escape, or absconded from the court, the prosecutor or the investigating authority,
b)
c) was acquitted with an order to an involuntary treatment in a mental institution.

Section 581 (1) The defendant shall be entitled to compensation for imprisonment, placement in a detention home or an involuntary treatment in a mental institution served under a final judgement, if the defendant was acquitted due to extraordinary legal remedy, received a less severe sentence, was placed on probation or was reprimanded, or the procedure against him was terminated, or it was established that the involuntary treatment in a mental institution was ordered without legal justification.

There is no data available on the number of cases nor on the result of the procedures. The calculation of the compensation differs in every cases. Request for non pecuniary compensation occur very often.

**38) Votre pays a-t-il mis en place des enquêtes auprès des professionnels de la justice et des usagers des tribunaux pour mesurer leur confiance dans la justice et leur degré de satisfaction par rapport au service rendu ? (plusieurs options possibles)**

- [x] enquêtes (de satisfaction) auprès des juges
- [ ] enquêtes (de satisfaction) auprès du personnel des tribunaux
- [ ] enquêtes (de satisfaction) auprès des procureurs
- [ ] enquêtes (de satisfaction) auprès des avocats
- [x] enquêtes (de satisfaction) auprès des parties
- [ ] enquêtes (de satisfaction) auprès d'autres usagers des tribunaux (par exemple jurés, témoins, experts, interprètes, représentants des agences gouvernementales)
- [ ] Enquêtes (de satisfaction) auprès des victimes

Si possible, veuillez préciser leurs titres, objets et sites internet où elles peuvent être consultées :

Satisfaction survey occurred among citizens generally measuring the satisfaction with the services delivered by the judicial system

**39) Si possible, veuillez préciser :**

| | Enquêtes systématiques (par exemple annuelles) | Enquêtes occasionnelles |
|---|---|---|
| Enquêtes au niveau national | Non | Oui |
| Enquêtes au niveau des tribunaux | Non | Non |

**40) Existe-t-il un dispositif national ou local permettant de déposer une plainte concernant le fonctionnement du système judiciaire (par exemple le traitement d'une affaire par un juge ou la durée d'une procédure)?**

- (●) Oui
- ( ) Non

**41) Veuillez préciser l'autorité compétente pour traiter de telles plaintes et informer si l'autorité doit ou ne doit pas respecter un délai pour répondre et/ou un délai pour traiter la plainte (plusieurs réponses possibles). Veuillez donner des informations sur l'efficacité de cette procédure de plainte dans la boîte "commentaire" ci-dessous.**

| | Délai pour répondre (par exemple pour accuser réception de la plainte, pour informer des suites qui lui seront données, etc.) | Délai pour traiter la plainte | Pas de délais |
|---|---|---|---|
| Tribunal concerné | Non | Oui | Non |
| Instance supérieure | Non | Non | Non |
| Ministère de la Justice | Non | Non | Non |
| Conseil supérieur de la magistrature | Non | Non | Non |
| Autres organisations extérieures (ex. médiateur) | Non | Non | Non |

Commentaire :
The party should be informed without delay after the decision concerning the complaint
The time limite is 30 days
No information concerning the efficiency of this complaint procedure

# 3. Organisation des tribunaux

## 3. 1. Fonctionnement

### 3. 1. 1. Tribunaux

**42) Nombre de tribunaux considérés comme entités juridiques (structures administratives) et implantations géographiques. Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.**

| | Nombre total |
|---|---|
| 42.1 Tribunaux de droit commun de 1ère instance (entités juridiques) | 131 |
| 42.2 Tribunaux spécialisés de 1ère instance (entités juridiques) | 20 |
| 42.3 Tous les tribunaux (implantations géographiques) (ce chiffre inclut les tribunaux de droit commun de 1ère instance, les tribunaux spécialisés de 1ère instance, tous les tribunaux de seconde instance et cours d'appels et toutes les cours suprêmes) | 157 |

**43) Nombre (entités juridiques) de tribunaux spécialisés (ou ordre judiciaire spécifique) de 1ère instance. Si "autres tribunaux spécialisés de 1ère instance", veuillez donner des précisions dans la boîte "commentaire" ci-dessous. Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.**

| | |
|---|---|
| Total (il doit correspondre au nombre indiqué à la question 42.2) | 20 |
| Tribunaux commerciaux | NA |
| Tribunaux du travail | 20 |
| Tribunaux des affaires familiales | NA |
| Tribunaux des affaires locatives (tribunaux des baux) | NA |
| Tribunaux de l'exécution des sanctions pénales | NA |
| Tribunaux administratifs | NA |
| Tribunaux des assurances et/ou de la sécurité sociale | NA |
| Tribunaux militaires | NA |
| Autres tribunaux spécialisés de 1ère instance | NA |

Commentaire :
Military judicial panels operate in 5 different nominated county courts. On the second instance the Regional Court of Budapest has exclusive competency.
Other: Companies Registry Courts as part of the county courts

**44) Une réforme dans la structure des tribunaux est-elle envisagée (par exemple une diminution du nombre de tribunaux (implantations géographiques) ou une réforme de la compétence des tribunaux) ?**

☑ Oui

☐ Non

Si oui, veuillez préciser :

Integrated administrative and labour courts will be set up from 1st January 2012.

**45) Nombre de tribunaux de 1ère instance (implantations géographiques) compétents pour les affaires suivantes. Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.**

| | Nombre de tribunaux |
|---|---|
| le recouvrement d'une petite créance. | 111 |
| le licenciement | 20 |
| le vol avec violence | 131 |

**Veuillez préciser la définition d'une petite créance et indiquer le montant financier en dessous duquel une créance est considérée comme telle :**

According to the Code of Civil Procedure:
The provisions of Chapters I-XIV shall apply - subject to the exceptions set out in this Part - to actions for the enforcement of any claim of a pecuniary nature only, falling within the competence of local courts, for a sum not exceeding one million forints calculated by way of the methods specified in Sections 24 and 25 - other than the actions described in Subsection (4) of Section 349 -, where the action was transferred from an order for payment procedure on account of a statement of opposition, or which normally ensue order for payment procedures under Subsection (2) of Section 315 (small claims procedures).

cf CN 05/07 Q45: en 2010 le maximum a été élevé a 1 000 000 F soit 3 586 euros. En fait à partir du 1 juin 2010 ce ne sont plus les tribunaux qui s'occupent des petites créances mais les notaires.

**Veuillez indiquer les sources utilisées pour les réponses aux questions 42, 43 et 45 :**

Act XIX of 1998 on Criminal proceedings, Act LXVI of 1997 on the Organizational and Administrative Structure of Courts, Act III of 1952 on the Code of Civil Procedure

### 3. 1. 2. Juges et personnels non-juges

**46) Nombre de juges professionnels siégeant en juridiction (si possible au 31 décembre 2010) (veuillez fournir l'information en équivalent temps plein et pour des postes permanents effectivement occupés, pour tous les types de juridictions confondus – droit commun et spécialisées). Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.**

**Veuillez ajouter dans la boîte "commentaire" ci-dessous toute information utile à l'interprétation des données ci-dessus.**

**********
**[Veuillez vous assurer que les procureurs et leurs personnels sont exclus des réponses suivantes (ils sont concernés par les questions 55-60). Si la distinction entre personnels attachés aux juges et personnels attachés aux procureurs n'est pas possible, merci de l'indiquer clairement.**

**Veuillez indiquer le nombre de postes effectivement pourvus à la date de référence et non pas les effectifs budgétaires théoriques.]**

| | Total | Hommes | Femmes |
|---|---|---|---|
| Nombre total de juges professionnels (1 + 2 + 3) | 2891 | 900 | 1991 |
| 1. Nombre de juges professionnels de première instance | 1666 | 501 | 1165 |
| 2. Nombre de juges professionnels dans les cours d'appel (2ème instance) | 1136 | 361 | 775 |
| 3. Nombre de juges professionnels dans les cours suprêmes | 89 | 38 | 51 |

Commentaire :

**47) Nombre de présidents de tribunaux (juges professionnels). Si la donnée n'est pas disponible,**

**veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.**

| | Total | Hommes | Femmes |
|---|---|---|---|
| Nombre total de juges professionnels (1 + 2 + 3) | 137 | 81 | 56 |
| 1. Nombre de président(e)s de tribunaux de première instance | 111 | 62 | 49 |
| 2. Nombre de président(e)s de cours d'appel (2ème instance) | 25 | 18 | 7 |
| 3. Nombre de président(s) de cours suprêmes | 1 | 1 | NA |

**48) Nombre de juges professionnels exerçant à titre occasionnel et rémunérés comme tel (si possible au 31 décembre 2010). Si nécessaire, veuillez indiquer dans la boîte "commentaire" ci-dessous toute information utile pour l'interprétation de la réponse à la question 48.**

| | |
|---|---|
| Donnée brute | NAP |
| Si possible, donnée en équivalent temps plein | NAP |

Commentaire :
In Hungary there are no professional judges sitting in courts on an occasional basis

**49) Nombres de juges non professionnels, non rémunérés, percevant, le cas échéant, un simple défraiement (si possible au 31 décembre 2010) (y compris les "lay judges" et juges consulaires ; les arbitres et les jurés sont exclus de cette donnée).**

| | | |
|---|---|---|
| Donnée brute | ☑ Oui | 4 382 |

**50) Votre système judiciaire prévoit-il un jury de jugement avec une participation des citoyens ?**

○ Oui
◉ Non

Si oui, pour quel(s) type(s) d'affaire(s) ?

**51) Veuillez indiquer le nombre de citoyens ayant participé à de tels jurys pour l'année de référence :**

NAP

**52) Nombre de personnel non-juge travaillant dans les tribunaux (si possible au 31 décembre 2010) (cette donnée ne devrait pas inclure le personnel travaillant pour les procureurs, voir question 60) (répondre en équivalent temps plein et pour les postes permanents effectivement occupés). Si « autres personnels non juges », veuillez le préciser dans la boîte "commentaire" ci-dessous.**

| | | |
|---|---|---|
| Nombre total de personnel non juge travaillant dans les tribunaux (1 + 2 + 3 + 4 + 5) | ☑ Oui | 7713 |
| 1. Rechtspfleger (ou organes équivalents) chargés de tâches juridictionnelles ou para-juridictionnelles, ayant des compétences autonomes et dont les décisions peuvent être susceptibles de recours. | ☑ Oui | 590 |
| 2. Personnels non juges chargés d'assister les juges à l'instar des greffiers (préparation des dossiers, assistance à l'audience, tenue des procès verbaux, aide à la préparation de la décision) | ☑ Oui | 3413 |
| 3. Personnels chargés de tâches relatives à l'administration et la gestion des tribunaux (gestion des ressources humaines, gestion des moyens matériels y compris de l'informatique, gestion financière et budgétaire, gestion de la formation) | | NAP |

| | | |
|---|---|---|
| 4. Personnels techniques | ☑ Oui | 3710 |
| 5. Autres personnels non juges | | NAP |

Commentaire :

**53) S'il existe dans votre système la fonction de Rechtspfleger (ou organes équivalents), veuillez décrire brièvement leur statut et leurs fonctions:**

According to the Act on the Code of Civil Procedure:

1) In cases delegated under the jurisdiction of courts of the first instance, the court secretary (Rechtspfleger) of the court shall have powers to act without a
formal hearing, instead of the single judge or the presiding judge; the Rechtspfleger of the court shall - furthermore - have powers to perform the taking of evidence in accordance with Subsection (2) of Section 202. In such cases the provisions of this Act governing court proceedings shall apply to the Rechtspfleger of the court.
(2)In the case described in Subsection (1) the Rechtspfleger of the court shall - unless otherwise prescribed by law - have independent signatory right, and shall have authority to take all measures and adopt all decisions - other than the judgment - that are delegated by law to the jurisdiction of the court or the presiding judge.
(3) The Rechtspfleger of the court may not adopt a decision relating to provisional measures.

According to the Act on the Code of Crliminal Procedure:

In the cases specified in the relevant legal regulation, the court secretary (rechtspfleger) vested with independent signatory rights may also act – under the direction and supervision of the judge – out of trial. In such cases the actions of the court executive shall be governed by the provisions set forth in this Act for court procedures.

**54) Les tribunaux ont-ils délégué certains services, relevant de leur compétence, à un service privé (par exemple, la maintenance informatique, la formation continue du personnel, la sécurité, les archives, le nettoyage)**

☑ Oui

☐ Non

Si oui, veuillez préciser :

The security services, cleaning services are provided in several court by private companies. Concerning the IT services: the Office of the National Council of Justice serves as the central authority but the operation of the central system is provided by a private company. Training courses are managed by the Judicial Academy operating within the judicial system.

**C.1**
**Vous pouvez indiquer ci-dessous :**
**- tout commentaire utile à l'interprétation des données indiquées dans ce chapitre**
**- les caractéristiques de votre système judiciaire et les réformes majeures mises en œuvre au cours des deux dernières années**

**Veuillez indiquer les sources utilisées pour les réponses aux questions 46, 47, 48, 49 et 52**

Q46, 47, 48, 49 and 52: National Council of Justice

Q49: There is no jury, but we have associate (lay) judges according to the Code of Criminal Procedure (Act XIX of 1998) and the Code of Civil Procedure (Act III of 1952).

Pursuant to section 14 of the Code of Criminal Procedure:

(1) The local court shall act
a) in a panel comprising one professional judge and two associate judges, if the criminal offence is punishable by eight years or more imprisonment by law,
b) without the involvement of associate judges (as single judge) in the cases not falling under item a).
(2) Unless provided otherwise by this Act, the county court acting as a court of first instance may conduct its procedure in a panel consisting of one professional judge and two associate judges.
(3) In the case specified in subsection (1) b), the local court may act in a panel consisting of one professional judge and two associate judges, if it establishes a classification of the criminal offence underlying the prosecution differently from that indicated in the indictment.
(4) In the cases specified in this Act, the county court acting as a court of first instance may conduct its procedure in a panel consisting of two professional judges and three associate judges.
(5) The court of appeal, the tribunal and – unless provided otherwise by this Act – the Supreme Court shall act in a

panel consisting of three professional judges.
(6) Both the single judge and the presiding judge shall be professional judges; in the course of administering justice, the professional judge and the associate judges have identical rights and obligations.
(7) In the case of criminal offences enumerated in Section 17 (5) and (6) in the first instance the presiding judge (single judge), and in the second instance one of the members of the panel shall be a judge designated by National Judiciary Council.

Pursuant to section 11 and 12 of the Code of Civil Procedure:

Unless provided otherwise by this Act, on the court of first instance one professional judge conducts procedures.
In special cases regulated by this Act, the court acting as a court of first instance may conduct its procedure in a panel consisting of one professional judge and two associate judges.
The courts of appeal act in a panel consisting of three professional judges.
In the course of administering justice, the professional judge and the associate judges have identical rights and obligations.

### 3. 1. 3. Procureurs et personnel

**55) Nombre de procureurs au 31 décembre 2010 (veuillez fournir l'information en équivalent temps plein et pour des postes permanents effectivement occupés, auprès de tous les types de juridictions confondus – droit commun et spécialisées). Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP. Veuillez ajouter dans la boîte "commentaire" ci-dessous toute information utile à l'interprétation des données.**

| | Total | Hommes | Femmes |
|---|---|---|---|
| Nombre total de procureurs (1 + 2 + 3) | 1 741 | 685 | 1 056 |
| 1. Nombre de procureurs auprès des tribunaux de première instance | 1 114 | 425 | 689 |
| 2. Nombre de procureurs auprès des cours d'appel (2ème instance) | 521 | 215 | 306 |
| 3. Nombre de procureurs auprès des cours suprêmes | 106 | 45 | 61 |

Commentaire :
Le probleme était que nous avons un niveau inférieur des cours d'appel (les parquets départementaux) et, les procureurs de ce niveau n'y figurent pas.

**56) Nombre de chefs des ministères publics. Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP. Veuillez ajouter dans la boîte "commentaire" ci-dessous toute information utile pour l'interprétation des données.**

| | Total | Hommes | Femmes |
|---|---|---|---|
| Nombre total de chefs de ministères publics (1 + 2 + 3) | 141 | 76 | 65 |
| 1. Nombre de chefs de ministères publics auprès de tribunaux de première instance | 135 | 71 | 64 |
| 2. Nombre de chefs de ministères publics auprès des cours d'appel (2ème instance) | 5 | 4 | 1 |
| 3. Nombre de chefs de ministères publics auprès des cours suprêmes | 1 | 1 | NA |

Commentaire :

**57) D'autres personnes ont-elles des fonctions comparables à celles des procureurs ?**

- ○ Oui
- ◉ Non

Nombre (en équivalent temps plein)

**58) Si oui, veuillez préciser leurs noms et fonctions :**

**59) Si oui, est-ce que leur nombre est inclus dans le nombre de procureurs que vous avez indiqué à la question 55 ?**

☐ Oui

☐ Non

**60) Nombre de personnels (non procureurs) rattachés au ministère public (si possible au 31 décembre 2010) (sans le nombre de personnels non juges, v. question 52) (répondre en équivalent temps plein et pour les postes permanents effectivement pourvus)**

| Nombre | ☑ Oui | 2 245 |
|---|---|---|

**C.2**
**Vous pouvez indiquer ci-dessous :**
**- tout commentaire utile à l'interprétation des données indiquées dans ce chapitre**
**- les caractéristiques de votre système judiciaire et les réformes majeures mises en œuvre au cours des deux dernières années**

**Veuillez indiquer la source des réponses aux questions 55, 56 et 60**

Office of the Prosecutor general, Personnel Department

### 3. 1. 4. Budget du tribunal et nouvelles technologies

**61) Quelles instances possèdent des compétences budgétaires au sein des tribunaux ? Si "autre", veuillez le préciser dans la boîte "commentaire" ci-dessous.**

| | Préparation du budget | Arbitrage et répartition du budget | Gestion quotidienne du budget | Evaluation et contrôle de l'utilisation du budget |
|---|---|---|---|---|
| Conseil d'administration | Non | Non | Non | Non |
| Président du tribunal | Oui | Oui | Non | Oui |
| Directeur administratif du tribunal | Oui | Non | Oui | Oui |
| Greffier en chef | Non | Non | Non | Non |
| Autre | Non | Non | Non | Non |

Commentaire :

**62) Pour l'assistance directe au travail du juge/du greffier, quelles sont les possibilités offertes par le système informatique existant dans les juridictions ?**

| | |
|---|---|
| Traitement de texte | 100% of courts |
| Base de données électronique pour la jurisprudence | 100% of courts |
| Dossiers électroniques | 100% of courts |
| E-mail | 100% of courts |
| Connexion internet | 100% of courts |

**63) Pour l'administration et la gestion, quelles sont les possibilités offertes par le système informatique existant dans les juridictions ?**

| | |
|---|---|
| Enregistrement des affaires | 100% of courts |
| Système d'information sur la gestion du tribunal | 100% of courts |

| | |
|---|---|
| Système d'information financière | 100% of courts |
| Vidéoconférence | 0 % of courts |

**64) Pour la communication entre le tribunal et les parties, quelles sont les possibilités offertes par le système informatique existant dans les juridictions ?**

| | |
|---|---|
| Formulaire électronique | +50% of courts |
| Site internet | 100% of courts |
| Suivi électronique des affaires | 0 % of courts |
| Registres électroniques | 100% of courts |
| Recouvrement électronique d'une petite créance | 0 % of courts |
| Recouvrement électronique d'une créance non contestée | -10% of courts |
| Dépôt d'un recours depuis un poste informatique | +50% of courts |
| Vidéoconférence | 0 % of courts |
| Autres moyens de communication électronique | 100% of courts |

**65) L'utilisation de la vidéoconférence dans les tribunaux (détails de la question 65). Veuillez indiquer dans la boîte "commentaire" ci-dessous toute précision sur le cadre juridique et le développement de la vidéoconférence dans votre pays.**

| | 65.1 En matière pénale, les tribunaux et les parquets ont-ils recours à la vidéoconférence pour des auditions de prévenus ou de témoins ? | 65.2 Ces auditions par le juge / le procureur peuvent-elles avoir lieu dans les services de police ou/et les établissements pénitentiaires ? | 65.3 Existe-t-il une législation spécifique sur les conditions d'utilisation de la vidéoconférence par les tribunaux ou les parquets, en particulier pour préserver les droits de la défense ? | 65.4 La vidéoconférence est-elle utilisée en matière autre que pénale ? |
|---|---|---|---|---|
| | Oui | Oui | Oui | Oui |

Commentaire :
According to the Act on Criminal Procedure:
Holding a trial by way of a closed-circuit communication system
Section 244/A (1) At the motion of the prosecutor, the accused, the counsel for the defence, the witness, the lawyer acting on behalf of the witness, the ward or legal representative of a minor witness, or ex officio, the presiding judge may order the examination of the witness, or, in exceptional cases, the examination of the accused by way of a closed-circuit communication system. In the event of an examination via a closed-circuit communication system, direct links between the venue of the trial and the place of stay of the person heard shall be provided by a device simultaneously transmitting oral and visual communication..
(2) The presiding judge may order the use of closed-circuit communication system for the examination
a) of a witness under fourteen years of age,
b) of a witness against whom a criminal offence falling in the scope of criminal offences against life and limb or health (Title I of Chapter XII of the Penal Code), or criminal offences against marriage, family, youth or public morals (Chapter XIV of the Penal Code), or other violent criminal offence was committed,
c) of a witness whose presence at the trial would impose unreasonable difficulties owing to his health condition or other circumstance,
d) of a witness or accused participating in a witness protection program specified in a separate legal regulation and whose protection otherwise justifies this, and
e) of a detained accused or witness whose presence at the trial would endanger public safety.
(3) Examination by way of a closed-circuit communication system may be ordered by the presiding judge in a decision explaining the reasons therefor. The decision concerning examination via a closed-circuit communication system may not be separately appealed, only when the conclusive decision is contested.
(4) The decision shall be communicated to the prosecutor, the accused, the counsel for the defence, the witness to be heard, the lawyer acting on behalf thereof, in the event of a minor witness, the legal representative or ward thereof, and in the event of the examination of a detained person, the relevant institution of detention at least five days prior to the day of the trial. The decision shall be sent to the court providing the separate room for the examination of the accused or the witness, or, when appropriate, the relevant institution of detention.

Section 244/B (1) The witness or accused to be examined via a closed-circuit communication system shall be placed in a separate room (testimonial room) at the court providing for their examination or at the relevant institution of detention. Only the following persons may be present in the testimonial room: the lawyer acting on behalf of the witness, in the case of a minor witness the legal representative or ward thereof, and if required, the expert, the interpreter and the staff operating the closed-circuit communication system. In the case of the examination of the accused via a closed-circuit communication system, the counsel for the defence may be present both in the venue of the trial and the testimonial room.

(2) A judge from the court of jurisdiction at the location of the testimonial room shall also be present in the testimonial room. In the course of opening the trial, after recording those present in the venue of the trial, at the request of the chairperson of the panel the judge establishes the identity of those present in the testimonial room and verifies that no unauthorised person has entered the testimonial room and the witness or the accused are not restricted in exercising their respective procedural rights.
(3) At the commencement of the examination, the presiding judge advises the witness or accused to be examined via a closed-circuit communication system that they will be examined in this manner.
(4) The responsibilities of the judge of the court having jurisdiction at the location of the examination set forth in this Section may also be performed by the court secretary, in this case the minutes specified in Section 244/D (1) shall also be taken by the court secretary.

Section 244/C (1) In the case of examinations by way of a closed-circuit communication system it shall be ensured that the participants of the criminal proceedings may exercise – with the exception stipulated in subsection (4) below – their rights to ask questions, make objections or motions and other procedural rights in compliance with the provisions of this Act.
(2) In the course of the examination the accused shall be allowed to contact his counsel for the defence. If the counsel for the defence is present in the venue of the trial, a telephone connection shall be provided for between the testimonial room and the venue of the trial to ensure this right.
(3) Those present at the trial shall be allowed to see the witness or accused in the testimonial room as well as all other persons examined or staying there simultaneously with the witness or the accused. While in the testimonial room, the witness and the accused shall be provided with the means to follow the course of the trial.
(4) Witnesses under fourteen years of age examined by way of a closed-circuit communication system may be questioned exclusively by the presiding judge. The members of the panel, the prosecutor, the accused, the counsel for the defence and the victim may propose questions to be asked. With the exception of a confrontation, while in the testimonial room, a witness under fourteen years of age may only hear and see the chairperson of the panel via the transmission device.
(5) Upon the examination by way of a closed-circuit communication system, the individual features of the witness suitable for identification (e.g.: face, voice) may be distorted by technical means during the transmission.

Section 244/D (1) The judge present in the testimonial room shall take separate minutes of the circumstances of the examination by way of a closed-circuit communication system, indicating the persons present in the testimonial room. The minutes shall be attached to the minutes taken at the trial.
(2) Simultaneously with the examination via a closed-circuit communication system, video and audio records shall be taken of the events taking place at the trial and the place of stay of the person examined. The video and audio records shall be attached to the documents.
(3) At the motion of the participants of the criminal proceedings, the presiding judge may order that the video and audio records be played at or outside the trial. Upon playing the video and audio records, it shall be ensured that they cannot be watched and heard, changed, destroyed or copied by unauthorised persons.

**C.3**
**Vous pouvez indiquer ci-dessous :**
**- tout commentaire utile pour l'interprétation des données indiquées dans ce chapitre**
**- les caractéristiques de votre système judiciaire et les réformes majeures mises en œuvre au cours des deux dernières années**

Q63 and 64 Videoconferencing:Equipments needed for videoconferencing could be provided from external sources based on the related request
Q64 According to articles 32, 33 and 35 of the Act 6 of 2006 on the publicity of companies, court registration proceedings and final settlement, company registration (change registration) process is an electronical process made by Court of Company Registration
Q64 Electronic processing of order of payment starts before the notary public

Chapter XIX. of Act III. of 1952 on the Code of Civil Procedure regulates the order of payment procedure. The procedure is a non-contentious procedure, in which the court upon the unilateral claim of the entitled person summons the debtor – without granting him/her a hearing and omitting the procedure of proof – to comply with what has been put forward in the claim or to raise an objection against it.
1.1. Scope of procedure

What may be the scope of the procedure?

1. The claim may be submitted only for pecuniary claims or claims on movable assets. In the event of a pecuniary claim, only claims that are overdue and the amount of which is exactly specified may be enforced

2. There is no ceiling regarding the value of the claim that can be enforced via an order of payment.
3. In the event of a pecuniary claim exceeding the value of HUF 200 000, the creditor may initiate a proceeding of an order of payment or a lawsuit. If, however, the pecuniary claim does not exceed HUF 200 000, the application initiating proceedings will be dealt with by the court as an application for an order of payment. In the event of a claim on a movable asset the party is free to decide whether to enforce his/her claim by submitting an application or via an order of payment. If, however, he or she chooses the order of payment, under Article 315(1) of the Act on the Code of Civil Procedure it is obligatory to indicate alternatively the amount which the entitled person claims to receive instead of the movable asset (alternative application). According to the established practice, if beside the claim on the movable asset the value of the pecuniary claim indicated in the alternative does not exceed HUF 200 000, the court considers the application as a claim for an order of payment.
4. The law rules out the issuing of an order of payment if the debtor, being a natural person does not have a domestic permanent address or place of residence, or the debtor, being a legal person (or company not having a legal personality) does not have a domestic seat – that is, if the known permanent address, place of residence or seat of the debtor is abroad, or if the whereabouts of the debtor is unknown.

1.2. Competent Court

Which court can be consulted with a claim for issuing an order of payment?

The court having general jurisdiction is entitled to issue an order of payment, that is the court in whose area of jurisdiction the debtor lives or resides, or the legal person, has its registered office. If his/her permanent address or habitual residence is not known, it is not possible to issue an order of payment.
1.3. Formal requirements

What are the formal requirements regarding the claim for issuing an order of payment?

1. The creditor must submit the claim for an order of payment in a written form, by using a special form for this purpose. The form can be obtained at the courts. The form consists of two parts, thus the requesting person has to present both the part concerning the submission of the claim and the part concerning the issuing of the order of payment. A party acting without a legal representative may present the claim before the court orally, as well. In such a case the court does not prepare a formal record but fills in the form in line with the claim. Claims must state:
* data from which the jurisdiction of the court can be determined,
* the name and permanent address of the creditor and the debtor (and their representatives),
* the claim to be enforced, its legal basis, amount and contributions and data and evidence serving as a basis for the claim.
2. In the event of an order of payment procedure, representation by a lawyer is not compulsory.
3. After the court, by issuing the order of payment, summons the debtor to comply, the court asks for the precise and unambiguous stating of the legal grounds, amount and contributions of the claim, and it checks its own motion that the claim fully complies with the legal requirements. If the claim does not comply with the minimum requirements, or some parts of the form were not filled in, the court asks the requesting person to remedy the deficiencies.
4. As in the order of payment procedure the question of evidence does not arise, there is no need to provide written evidence.

1.4. Rejection of application

Under what circumstances may the application for issuing an order of payment be rejected? Does the court examine whether the claim is justified before issuing an order of payment?

An application for an order of payment may be rejected on the basis of points a)-g) or j) of Article 130 (1) of the Act on the Code of Civil Procedure. That is, the court may reject the application if:

1. on the basis of a law or international agreement it can be excluded that the Hungarian court has jurisdiction in the case;
2. the claimant's claim is within the jurisdiction of another court or authority or another court has jurisdiction in the case, but Article 129 may not be applied due to the lack of necessary data;
3. proceedings by another authority must precede the trial;
4. there is already an ongoing action between the parties based on the same factual basis, for the same rights – either before the same, or before another court - or a legally binding ruling has already been made;
5. the party has no legal capacity in the case;
6. the claimant's application is premature or – for some reason other than limitation - cannot be enforced by a court;
7. the action is not brought by the person entitled to do so by law, or the action may only be brought against a person defined by law, or the participation of certain persons in the trial is compulsory and the claimant - in spite of a summoning - did not call on this person (these persons) to appear;
8. the claimant did not submit the application received to remedy deficiencies by the deadline set, or it was submitted once again with deficiencies and so the application cannot be judged upon. The application for an order of payment is also rejected if the debtor's registered office or permanent address is unknown.

When administering the application for an order of payment the court also has to examine on its own initiative whether it has jurisdiction to issue the order of payment, and if necessary, it must establish the facts to an extent that enables taking a satisfactory stance on the question whether the case is within the court's jurisdiction.

At the same time the law enables the court to transform the order of payment procedure into a trial, that is to set a deadline for a hearing on the case if it believes that the application has no legal basis, its existence seems contestable or the application is made for the purpose of committing a criminal offence.
1.5. Appeal

Can the applicant appeal against the rejection of an application for issuing an order of payment?

After the application for an order of payment has been rejected, the applicant may take the claim to a full trial. In theory, the applicant may appeal against the ruling rejecting the order of payment, but if he or she submits the application again, the effects of litigation remain.
1.6. Statement of opposition

In the case of issuing an order how much time does the defendant have to contest the application? What are the possible requirements of form for the contesting statement?

The debtor may contest the application within 15 days of the serving of the order of payment. If the debtor fails to do this out of no fault of his own, the consequences of the failure can be remedied with evidence.

The statement of opposition is a statement by the debtor saying that he or she denies or opposes the legal basis or the amount of the application for an order of payment and on the basis of this asks for a hearing, that is, to transform the procedure into a full trial. Before the deadline for submitting the statement of opposition the submission presented from the debtor is considered to be a statement of opposition if it is clear from it that the debtor does not accept or does not approve of the order of payment or the part of it that demands compliance being given mandatory force. There are thus no formal requirements for the statement of opposition. The only requirement concerns the number of copies submitted, as the statement of opposition always has to be submitted in one more copy than the number of parties concerned by the proceedings.

1.7. Effect of statement of opposition

What happens if the defendant opposes the claim in time? Is the case included in the normal court proceedings automatically or at request?

The legal consequence of the statement of opposition submitted by the debtor or the person authorised by law is the following: the proceeding out of court, if the additional costs are paid and so the court costs are covered, will automatically become a trial before court. If additional costs are not paid, the court terminates the proceedings. The statement of opposition initiates the procedure. In the event of a statement of opposition the rules governing proceedings started with an application have to be applied, and the creditor is considered to be the claimant while the debtor is considered to be the defendant.
1.8. Effect of lack of statement of opposition

What happens of the defendant does not oppose the claim in time?

1. If the debtor does not comply with the summons in the order of payment and does not oppose it before the deadline and in the prescribed manner, then the order of payment will have the same effect as a legally binding ruling. In this case the order of payment will become effective fifteen days after it was served. The legally binding order of payment means a judgment in the case, and until it is opposed with an application for retrial, no claim can be enforced on the same factual basis, for the same rights, between the same parties.
2. The court provides the creditor with a copy of the order of payment with a clause for making it legally binding on the debtor, so this person does not have to take any further action in connection with the enforcement order.
Source:
http://ec.europa.eu/civiljustice/simplif_accelerat_procedures/simplif_accelerat_procedures_hun_en_order.htm#1x

## 3. 2. Performance et évaluation

### 3. 2. 1. Performance et évaluation

**66) Existe-t-il une institution centralisée responsable de la collecte de données statistiques concernant le fonctionnement des tribunaux et du système judiciaire ?**

☑ Oui

☐ Non

Si oui, veuillez préciser le nom et les coordonnées de cette institution:

The Department of Statistics within the Division of Administration of Courts of the Office of the National Council of Justice

**67) Les tribunaux individuels doivent-ils établir un rapport annuel d'activités (qui présente par exemple le nombre d'affaires traitées, d'affaires en instance, le nombre de juges et de personnels administratifs,**

**les objectifs à atteindre et un bilan d'évaluation) ?**

- [x] Oui
- [ ] Non

**68) Existe-t-il dans les tribunaux un système de suivi régulier des activités des tribunaux concernant:**
**----------**
**Le système de suivi des activités vise à contrôler l'activité quotidienne des tribunaux (en particulier la production des tribunaux) notamment au travers de collectes de données et d'analyses statistiques (v. aussi les questions 80 et 81).**

- [x] le nombre de nouvelles affaires ?
- [x] le nombre de décisions rendues ?
- [x] le nombre d'affaires faisant l'objet d'un renvoi ?
- [x] la durée des procédures (délais)?
- [x] autre ?

Si autre, veuillez préciser :

Individual judge statistics, statistics on the reasons of the postpones trials, number of trial days, number of trialled cases, number of cases scheduled for one day, cases under process of an individual judge

**69) Existe-t-il un système d'évaluation régulière de l'activité (en termes de performance et de rendement) de chaque tribunal ?**
**----------**
**Le système d'évaluation concerne la performance des systèmes judiciaires, incluant une vision à plus long terme et utilisant des indicateurs et des objectifs. Cette évaluation peut avoir une nature plus qualitative (v. questions 69-77). Elle ne concerne pas l'évaluation globale du (bon) fonctionnement des tribunaux (v. question 82).**

- (•) Oui
- ( ) Non

Veuillez préciser :

**70) Concernant l'activité des tribunaux, avez-vous défini des indicateurs de performance et de qualité (si non, veuillez passer à la question 72) :**

- (•) Oui
- ( ) Non

**71) Veuillez préciser les 4 principaux indicateurs de performance et de qualité qui ont été définis :**

- [x] nouvelles affaires
- [x] durée des procédures (délais)
- [x] affaires terminées
- [x] affaires pendantes et stocks d'affaires
- [ ] productivité des juges et des personnels des tribunaux
- [ ] pourcentage d'affaires traitées par un juge unique
- [ ] exécution des décisions pénales
- [ ] satisfaction du personnel des tribunaux
- [ ] satisfaction des usagers (au regard des services rendus par les tribunaux)
- [ ] qualités judiciaire et organisationnelle des tribunaux
- [ ] coûts des procédures judiciaires
- [ ] autre

Si autre, veuillez préciser :

**72) Existe-t-il des objectifs quantitatifs de performance (par exemple un nombre d'affaires à traiter par mois) pour chaque juge ?**

- (●) Oui
- ( ) Non

**73) Veuillez préciser qui fixe les objectifs individuels des juges :**

- [ ] pouvoir exécutif (par exemple Ministère de la justice)
- [ ] pouvoir législatif
- [ ] pouvoir judiciaire (par exemple un Conseil supérieur de la Magistrature ou une instance supérieure)
- [ ] Autre

Si autre, veuillez préciser :

**74) Existe-t-il des objectifs de performance au niveau des tribunaux (si non, veuillez passer à la question 77)?**

- ( ) Oui
- (●) Non

**75) Veuillez préciser qui fixe les objectifs des tribunaux :**

- [ ] pouvoir exécutif (par exemple Ministère de la justice)
- [ ] pouvoir législatif
- [ ] pouvoir judiciaire (par exemple un Conseil supérieur de la Magistrature ou une instance supérieure)
- [ ] autre

Si autre, veuillez préciser :

**76) Veuillez préciser les principaux objectifs appliqués aux tribunaux:**

**77) Quelle est l'autorité chargée d'évaluer la performance des tribunaux (v. questions 69 à 76) (réponses multiples possible):**

- [x] Conseil Supérieur de la Magistrature
- [ ] Ministère de la justice
- [ ] organe d'inspection
- [ ] Cour Suprême
- [ ] organe d'audit extérieur
- [ ] autre

Si autre, veuillez préciser :

**78) Existe-t-il des standards de qualité définis pour l'ensemble du système judiciaire (existe-t-il un système de qualité et/ou une politique de qualité de la justice) ?**

- (●) Oui
- ( ) Non

Si oui, veuillez préciser :

The evaluation of individual judges' performance is carried out based on Act 67 of 1997 on the LEgal Status and Remuneration of Judges. The evaluation includes an inspection of the material, procedural and administrative aspects of the activities of judges. More detailed rules are issued by the National Council of Justice in this regard.

**79) Existe-t-il des personnels spécialisés dans les tribunaux responsables de ces standards de qualité ?**

- ○ Oui
- ◉ Non

**80) Existe-t-il une procédure d'évaluation permettant de mesurer le stock d'affaires en instance et de repérer les affaires non traitées dans un délai raisonnable :**

- ☑ en matière civile
- ☑ en matière pénale
- ☑ en matière administrative

**81) Disposez-vous d'une procédure d'évaluation permettant de mesurer les temps morts durant les procédures judiciaires ?**

- ◉ Oui
- ○ Non

Si oui, veuillez préciser :

The judges need to report frequently on those cases where the duration of the process is longer (duration of the case is more than 2 years, duration of the case is more than 5 years). Based on these reports special measures could be initiated. The court presidents should report on these cases to the National Council of Justice.

**82) Existe-t-il un système d'évaluation globale du (bon) fonctionnement des tribunaux basé sur un plan d'évaluation (calendrier de visites) convenu a priori?**
**----------**
**Cette question ne concerne pas l'évaluation spécifique d'indicateurs de performance.**

- ◉ Oui
- ○ Non

Veuillez préciser la fréquence de l'évaluation:

Annual report on the operation of the court provided by the president of the county courts, regional courts.
The evaluation consists mainly of the annual report of the presidents and the annual work schedule of the courts. Primary aspects of evaluation: the number of incoming, closed, pending cases,the length of procedures and events of hearings.

**83) Existe-t-il une procédure régulière de suivi et d'évaluation de l'activité du ministère public ?**

- ◉ Oui
- ○ Non

Si oui, veuillez préciser:

The Prosecutor General submits to the Parliament his report on the activities of the prosecution every year.

**C.4**
**Vous pouvez indiquer ci-dessous :**
**- tout commentaire utile pour l'interprétation des données indiquées dans ce chapitre**
**- les caractéristiques du système de suivi et d'évaluation des tribunaux**

# 4. Procès équitable

## 4. 1. Principes

### 4. 1. 1. Informations générales

**84) Pourcentage de jugements par défaut de première instance en matière pénale (affaires dans lesquels le suspect n'est ni présent ni représenté par un professionnel juridique durant l'audience) ?**

NA

**85) Existe-t-il une procédure permettant la récusation effective d'un juge si une partie estime qu'il n'est pas impartial ?**

- (●) Oui
- ( ) Non

Si possible, nombre de récusations qui ont abouti (en une année):

**86) Nombre d'affaires relatives à l'Article 6 de la Convention Européenne des Droits de l'Homme (durée et non-exécution). Si la donnée n'est pas disponible, veuillez indiquer NA.**

| | Affaires déclarées irrecevables par la Cour | Règlements amiables | Jugements constatant une violation | Jugements constatant une non violation |
|---|---|---|---|---|
| Procédures civiles - Article 6§1 (durée) | 3 | 27 | 10 | 0 |
| Procédures civiles - Article 6§1 (non-execution) | 0 | 0 | 0 | 0 |
| Procédures pénales - Article 6§1 (durée) | 2 | 5 | 3 | 0 |

**Veuillez préciser les sources :**

Agent of the Governement before the ECHR

**D.1**
**Vous pouvez indiquer ci-dessous tout commentaire utile à l'interprétation des données indiquées dans ce chapitre**

## 4. 2. Durée des procédures

### 4. 2. 1. Généralités

**87) Existe-t-il des procédures spécifiques pour les affaires urgentes :**

- [x] en matière civile ?
- [x] en matière pénale ?
- [x] en matière administrative ?
- [ ] il n'y a pas de procédure spécifique

Si oui, veuillez préciser:

Cases concerning, for example, parental control, electoral process, coercive measures.
1. What are the different types of measures?

Act III of 1952 on the Code of Civil Procedure provides for two types of legal measure to ensure that an opposed claim can be satisfied: interim injunction and provisional enforcement, which provide protection before the legally-binding ruling has been made. This is supplemented by the precautionary measure provided by Act LIII of 1994 on Enforcement.
2. What are the conditions under which these measures may be issued?
2.1. Please describe the procedure!
Interim injunction:

Article 156 of the Code of Civil Procedure regulates the interim injunction, the objective of which is to ensure immediate legal protection to prevent the impairment of rights that, due to the lapse of time, cannot be remedied ex post. By ordering an interim injunction the court obliges the adversary of the applicant to comply at a time when it has not yet come to a decision on the substance of the legal dispute between the parties. Contrary to the general rules, the court adjudicates on the application in advance and the ruling ordering the interim injunction may be executed in advance irrespective of the appeals procedure.

As a general rule, an interim injunction may be granted upon application; the court may grant it of its own motion only if there is a special authorisation by law: in an affiliation action - if the trial proceedings were suspended - about the alimony the child is entitled to [Section 153(3) of the Act on the Code of Civil Procedure] and in matrimonial proceedings about the placement and support of the child, expanding or limiting parental supervisory rights and visiting rights (Section 287 of the Act on the Code of Civil Procedure).

The request may be put forward only in a court action, the earliest date being the time when the application is submitted.

As regards the content of the application, it must be shown that the circumstances presented in it are probable and that they refer to one of the specified situations requiring immediate legal protection (risk of damage, need for legal protection on account of the change of status of the legal dispute, or a legal protection situation requiring special recognition) and the measure applied for must, of course, be such as to prevent the impairment of rights. The applicant under law does not have to prove that the information presented is true beyond doubt, but only that it is probable. There is only a limited possibility for verification while the measure is in operation; it may only be allowed if the application cannot be decided without it. The reason for the restriction is the objective of the interim injunction and the fact that the party only has to show that the situation is possible, without verifying that the conditions for the applications are definitely met.

The trial court, when arriving at a decision, has to consider whether the party has shown that the legal conditions justifying the ordering of an interim injunction are probably met. The court is also free to decide what degree of probability it requires the party to show. If the application meets these conditions, the court must assess the disadvantages caused by the interim injunction and compare them with the advantages that can be achieved. Although the Act uses the expression 'disadvantage caused' it actually means not the disadvantage already caused but the disadvantage that may be caused by the injunction and its implementation. If the assessment reveals that the disadvantages exceed the advantages, the application has to be rejected. The court also decides at the time of the assessment whether it requires a security to be lodged for the interim injunction.

The court decides by way of order on the application for interim injunction. In exceptional cases the court rescinds the interim injunction in its judgment.

The court may decide on the application either during the actual trial or separately.

The order remains in effect until it is rescinded or, if this does not take place, until final judgment is given in the case or when the judgment of the court of first instance becomes legally binding.

Either of the parties may apply to have the order rescinded.
Provisional enforcement:

Section 231 of the Act on the Code of Civil Procedure regulates the possibilities of provisional enforcement. Under the provisions – in some cases – the legally binding decision can have effects and the decision can be enforced before it actually becomes

final. In the cases listed in Article 231 of the Act on the Code of Civil Procedure, if the conditions mentioned there are fulfilled, the court of first instance must declare its judgment provisionally enforceable of its own motion. If the appeal hearing is deferred, the court of second instance may also decide on provisional enforcement on application by the person concerned, having regard to the facts of the case.

The Code of Civil Procedure contains here an exhaustive list, which may not be given a broad interpretation. Provisional enforcement may therefore not be ordered for any other reason.

On the basis of this the following must be declared enforceable, whether or not an appeal is lodged:

* a decision ordering payment of maintenance or childcare allowance and the provision of other temporary services having a similar objective.
* a decision on ordering the termination of trespass;
* a decision ordering satisfaction of a claim recognised by the defendant;
* a decision ordering payment of a sum of money on the basis of the obligation assumed in an authentic instrument or a private document representing conclusive evidence (Articles 195 and 196), if all the circumstances serving as a basis for it were certified with such a document;
* a decision ordering a non-financial action to be taken, if the claimant would suffer disproportionately severe damage or if it is difficult to establish the damage caused by the deferment of the enforcement, and if the claimant provides adequate security.

If the court of first instance declares the ruling provisionally enforceable despite Articles 231 and 232 of the Act on the Code of Civil Procedure, the president of the chamber acting at second instance may order proceedings to be suspended before the hearing is held, but it will take place at the request of the interested party even if the appeals trial is deferred, together with the examination of all the facts of the case.

The court may decline to order provisional enforcement if ordering it would put a disproportionately heavier burden on the defendant than declining to do so would put on the claimant. The defendant, however, must present an application to the court in every case; the court may not decide to decline to order provisional enforcement in the listed cases of its own motion.
Enforcement of precautionary measure:

Under Hungarian law, enforcement may be ordered only if the court has issued an enforcement order. The enforcement order may be issued if the final decision contains an obligation (order to do something), it is legally binding or can be provisionally enforced and the deadline for compliance has expired. If these three conditions are not all met simultaneously, the issuing of the enforcement order is not possible and therefore enforcement may not be started. For the protection of the rights of the entitled person there is, however, a possibility to order a precautionary measure.

Therefore if the enforcement order to fulfil the claim cannot yet be issued but the party asking for enforcement has shown that the later fulfilment of the claim is probably threatened, upon the application of the party requesting enforcement, the court orders by way of precautionary measure:

1. security for a pecuniary claim, and
2. the blocking of the specified object.

A precautionary measure may be ordered only in cases that are specified by law. For example, if the claim is based on a ruling under which an enforcement writ could be issued but this cannot be done because the judgment is not yet legally binding or the judgment is legally binding but the deadline for fulfilment has not yet expired; or matrimonial or other proceedings were instituted on a claim in the family courts and the validity of the claim, its amount and its dueness have all been certified with an authentic instrument or a private document representing conclusive evidence.

In the first case the court entitled to issue an enforcement writ and in the second case the court where the proceedings were instituted has the right to proceed.

The court must decide on the precautionary measure as a matter of urgency and within no more than eight days and send the order for a precautionary measure without delay to the bailiff.

The appeal against the order for a precautionary measure does not have suspensory effect.

After receiving the order for a precautionary measure, the bailiff without delay summons the party asking for enforcement to pay the advance payment necessary for enforcement within a short time limit, and after the advance payment has arrived he starts the enforcement of the precautionary measure without delay.
2.2. What are the conditions under which such measures may be issued?

The criteria to be applied by courts principally reflect the need to ensure the subsequent enforcement of the claim. In the case of an interim injunction the basic criterion is that enforcement must be necessary for preventing an imminent threat of damage or maintaining the situation that caused the legal dispute or for the protection of the specific rights of the applicant, and that the disadvantage caused by the measure does not exceed the advantages that can be achieved by it. Where provisional enforcement is ordered the court must order enforcement. There is a discretion to be exercised only where there is a request from the defendant that provisional enforcement should not be ordered. Where a precautionary measure is to be ordered, there must be evidence of a threat to the subsequent fulfilment of the claim. Therefore the claim must have been opposed in all three cases and in the case of an interim injunction and a precautionary measure it must be under threat; in the case of provisional enforcement the criterion is the protection of the interests of the eligible person.

3. Object and nature of such measures?
3.1. What types of assets can be subject to such measures?

In the case of an interim injunction the court orders the fulfilment of what has been laid down in the claim or in the application for an interim injunction upon the request by the court. This may extend to any claim put forward in the application.

Provisional enforcement means the enforcement of what has been ordered in a ruling of the court of first instance that does not yet have legally binding effect; this can also impose several obligations or services.

In a precautionary measure the court may order the blockage of a specified object or demand security for a financial claim. If the court orders security to be given for a financial claim, then the bailiff will hand over the order containing it to the debtor onsite, at the same time ordering him/her to pay the relevant amount without delay to the bailiff's hands. If the debtor does not comply, the bailiff may seize any asset of the debtor. In order to seize real property, the bailiff contacts the land registry office without delay to register enforcement rights to secure the financial claim in the land registry.

When an amount is to be secured, the bailiff summons the financial institution handling the amount the debtor is entitled to with an order that, after receiving the letter of summons, it shall not pay the amount secured and the amount covering the costs of the proceedings either to the debtor or to anybody else and, if the balance of the account does not attain the amount to be secured, it should act identically with regard to future payments.

A blockage ordered for a specified object may extend to any movable property having a value.
3.2. What are the effects of such measures?

In the case of an interim injunction and provisional enforcement, the debtor has to comply with the court's judgment. Based on the order an enforcement proceeding may be started.

There are two types of precautionary measure with different effects. Where the measure is to secure a claim, the debtor must hand over a specified amount of money to the bailiff. If a financial institution manages the amount of money the debtor is entitled to, then the bailiff summons the financial institution managing the amount the debtor is entitled to with an order that, after receiving the letter of summons, it shall not pay the amount secured and the amount covering the costs of the proceedings either to the debtor or to anybody else and, if the balance of the account does not attain the amount to be secured it should act identically with regard to future payments. The financial institution informs the bailiff within eight days of receiving the letter of summons what amount it was able to apply the measure for, and after this the debtor's assets may be confiscated only up to the amount of the remaining claim. If the debtor does not have the specified amount of money, another asset will be confiscated.

Where a specified object is to be blocked, the debtor may continue to use if it does not have to be physically locked but is not free to dispose of it. If the bailiff physically locks the object, it is an offence to open the room storing it, remove the seal indicating the blockage or dispose of or use the blocked object and the offender will be prosecuted (violation of seals).

3.3. What is the validity of such measures?

The court decides by way of order on the application for an interim injunction. The order remains in effect until it is rescinded or, if it is not rescinded, until an order is made closing the case or when it takes legal effect at first instance.

A precautionary measure remains in effect until the order for enforcement of the claim is made or until the court decides to terminate the precautionary measure.

Provisional enforcement means the enforcement of the obligation laid down in the ruling before it acquires legally binding effect, whether or not there is an appeal. This has therefore no limit in time.
4. Is there a possibility of appeal against the measure?

There is a possibility for a separate appeal against the order for an interim injunction. The general rules govern the submission of this appeal. The limit is 15 days. The appeal must be lodged at the court that made the ruling. If the appeal is substantiated, the court rescinds its interim injunction. Otherwise, upon an application– or if the claimant abandons the claims – the court may change the order itself.

The court is obliged to order provisional enforcement in the cases listed in the Act. The defendant may, however, ask for provisional enforcement to be waived if it would mean a disproportionately severe burden for him/her. The application must be presented at the court hearing the case.

An appeal may be submitted against the order for a precautionary measure at the court hearing the case. This, however has no suspensory effect on enforcement. The parties may submit an appeal within 15 days of the announcement of the order.
Source:
http://ec.europa.eu/civiljustice/interim_measures/interim_measures_hun_en.htm

**88) Existe-t-il des procédures simplifiées :**

- [x] en matière civile (petits litiges) ?
- [x] en matière pénale (petites infractions) ?
- [x] en matière administrative ?
- [ ] il n'y a pas de procédure simplifiée

Si oui, veuillez préciser:

In criminal cases the procedures handled with the omission of the trial.

In civil cases the procedures related to the order for payment procedure:Order of payment procedure
1. Order of payment procedure

Chapter XIX. of Act III. of 1952 on the Code of Civil Procedure regulates the order of payment procedure. The procedure is a non-contentious procedure, in which the court upon the unilateral claim of the entitled person summons the debtor – without granting him/her a hearing and omitting the procedure of proof – to comply with what has been put forward in the claim or to raise an objection against it.
1.1. Scope of procedure

What may be the scope of the procedure?

1. The claim may be submitted only for pecuniary claims or claims on movable assets. In the event of a pecuniary claim, only claims that are overdue and the amount of which is exactly specified may be enforced
2. There is no ceiling regarding the value of the claim that can be enforced via an order of payment.
3. In the event of a pecuniary claim exceeding the value of HUF 200 000, the creditor may initiate a proceeding of an order of payment or a lawsuit. If, however, the pecuniary claim does not exceed HUF 200 000, the application initiating proceedings will be dealt with by the court as an application for an order of payment. In the event of a claim on a movable asset the party is free to decide whether to enforce his/her claim by submitting an application or via an order of payment. If, however, he or she chooses the order of payment, under Article 315(1) of the Act on the Code of Civil Procedure it is obligatory to indicate alternatively the amount which the entitled person claims to receive instead of the movable asset (alternative application). According to the established practice, if beside the claim on the movable asset the value of the pecuniary claim indicated in the alternative does not exceed HUF 200 000, the court considers the application as a claim for an order of payment.
4. The law rules out the issuing of an order of payment if the debtor, being a natural person does not have a domestic permanent address or place of residence, or the debtor, being a legal person (or company not having a legal personality) does not have a domestic seat – that is, if the known permanent address, place of residence or seat of the debtor is abroad, or if the whereabouts of the debtor is unknown.

1.2. Competent Court

Which court can be consulted with a claim for issuing an order of payment?
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The court having general jurisdiction is entitled to issue an order of payment, that is the court in whose area of jurisdiction the debtor lives or resides, or the legal person, has its registered office. If his/her permanent address or habitual residence is not known, it is not possible to issue an order of payment.
1.3. Formal requirements

What are the formal requirements regarding the claim for issuing an order of payment?

1. The creditor must submit the claim for an order of payment in a written form, by using a special form for this purpose. The form can be obtained at the courts. The form consists of two parts, thus the requesting person has to present both the part concerning the submission of the claim and the part concerning the issuing of the order of payment. A party acting without a legal representative may present the claim before the court orally, as well. In such a case the court does not prepare a formal record but fills in the form in line with the claim. Claims must state:
* data from which the jurisdiction of the court can be determined,
* the name and permanent address of the creditor and the debtor (and their representatives),
* the claim to be enforced, its legal basis, amount and contributions and data and evidence serving as a basis for the claim.
2. In the event of an order of payment procedure, representation by a lawyer is not compulsory.
3. After the court, by issuing the order of payment, summons the debtor to comply, the court asks for the precise and unambiguous stating of the legal grounds, amount and contributions of the claim, and it checks its own motion that the claim fully complies with the legal requirements. If the claim does not comply with the minimum requirements, or some parts of the form were not filled in, the court asks the requesting person to

remedy the deficiencies.
4. As in the order of payment procedure the question of evidence does not arise, there is no need to provide written evidence.

1.4. Rejection of application

Under what circumstances may the application for issuing an order of payment be rejected? Does the court examine whether the claim is justified before issuing an order of payment?
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An application for an order of payment may be rejected on the basis of points a)-g) or j) of Article 130 (1) of the Act on the Code of Civil Procedure. That is, the court may reject the application if:

1. on the basis of a law or international agreement it can be excluded that the Hungarian court has jurisdiction in the case;
2. the claimant's claim is within the jurisdiction of another court or authority or another court has jurisdiction in the case, but Article 129 may not be applied due to the lack of necessary data;
3. proceedings by another authority must precede the trial;
4. there is already an ongoing action between the parties based on the same factual basis, for the same rights – either before the same, or before another court - or a legally binding ruling has already been made;
5. the party has no legal capacity in the case;
6. the claimant's application is premature or – for some reason other than limitation - cannot be enforced by a court;
7. the action is not brought by the person entitled to do so by law, or the action may only be brought against a person defined by law, or the participation of certain persons in the trial is compulsory and the claimant - in spite of a summoning - did not call on this person (these persons) to appear;
8. the claimant did not submit the application received to remedy deficiencies by the deadline set, or it was submitted once again with deficiencies and so the application cannot be judged upon. The application for an order of payment is also rejected if the debtor's registered office or permanent address is unknown.

When administering the application for an order of payment the court also has to examine on its own initiative whether it has jurisdiction to issue the order of payment, and if necessary, it must establish the facts to an extent that enables taking a satisfactory stance on the question whether the case is within the court's jurisdiction.
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At the same time the law enables the court to transform the order of payment procedure into a trial, that is to set a deadline for a hearing on the case if it believes that the application has no legal basis, its existence seems contestable or the application is made for the purpose of committing a criminal offence.
1.5. Appeal

Can the applicant appeal against the rejection of an application for issuing an order of payment?

After the application for an order of payment has been rejected, the applicant may take the claim to a full trial. In theory, the applicant may appeal against the ruling rejecting the order of payment, but if he or she submits the application again, the effects of litigation remain.
1.6. Statement of opposition

In the case of issuing an order how much time does the defendant have to contest the application? What are the possible requirements of form for the contesting statement?

The debtor may contest the application within 15 days of the serving of the order of payment. If the debtor fails to do this out of no fault of his own, the consequences of the failure can be remedied with evidence.

The statement of opposition is a statement by the debtor saying that he or she denies or opposes the legal basis or the amount of the application for an order of payment and on the basis of this asks for a hearing, that is, to transform the procedure into a full trial. Before the deadline for submitting the statement of opposition the submission presented

from the debtor is considered to be a statement of opposition if it is clear from it that the debtor does not accept or does not approve of the order of payment or the part of it that demands compliance being given mandatory force. There are thus no formal requirements for the statement of opposition. The only requirement concerns the number of copies submitted, as the statement of opposition always has to be submitted in one more copy than the number of parties concerned by the proceedings.
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1.7. Effect of statement of opposition

What happens if the defendant opposes the claim in time? Is the case included in the normal court proceedings automatically or at request?

The legal consequence of the statement of opposition submitted by the debtor or the person authorised by law is the following: the proceeding out of court, if the additional costs are paid and so the court costs are covered, will automatically become a trial before court. If additional costs are not paid, the court terminates the proceedings. The statement of opposition initiates the procedure. In the event of a statement of opposition the rules governing proceedings started with an application have to be applied, and the creditor is considered to be the claimant while the debtor is considered to be the defendant.
1.8. Effect of lack of statement of opposition

What happens of the defendant does not oppose the claim in time?

1. If the debtor does not comply with the summons in the order of payment and does not oppose it before the deadline and in the prescribed manner, then the order of payment will have the same effect as a legally binding ruling. In this case the order of payment will become effective fifteen days after it was served. The legally binding order of payment means a judgment in the case, and until it is opposed with an application for retrial, no claim can be enforced on the same factual basis, for the same rights, between the same parties.
2. The court provides the creditor with a copy of the order of payment with a clause for making it legally binding on the debtor, so this person does not have to take any further action in connection with the enforcement order.
Source:
http://ec.europa.eu/civiljustice/simplif_accelerat_procedures/simplif_accelerat_procedures_hun_en_order.htm#1x

Existence of a special Small Claims procedure:

As a general rule, for enforcing small claims the creditor has the order of payment as an available option, that is he or she will generally speaking have to decide whether to enforce the claim according to the rules of the normal procedure or via an order of payment.

During the normal court proceedings, however, different appeal and second instance procedural rules apply for small claims. Sections 256/B-256/E of the Act on the Code of Civil Procedure contain these special rules.

The provisions limit the right to appeal in small claims cases if the law itself defines the circumstances in which an appeal may be brought, and they simplify the proceeding of second instance.

The application of these rules based on Section 256/B of the Act on the Code of Civil Procedure:

concern rulings of the court of first instance;
against which an appeal has been made and which has been made in a property case;
where the amount of the appeal does not exceed the maximum limit determined by law.

Under the law, if any of these conditions is not met, the normal rules apply for the appeal against the ruling as well as for the appeal against the orders.

**89) Les tribunaux et les avocats ont-ils la possibilité de conclure des accords sur les modalités de traitement des affaires (présentation des dossiers, fixation des délais accordés aux avocats pour soumettre leurs conclusions et des dates d'audience) ?**

- ○ Oui
- ◉ Non

Si oui, veuillez préciser :

### 4. 2. 2. La gestion des flux d'affaires et la durée des procédures judiciaires

**90) Note:**
**Les correspondants nationaux sont invités à faire particulièrement attention à la qualité des réponses aux questions 91 à 102 concernant la gestion des flux d'affaires et la durée des procédures judiciaires. La CEPEJ a convenu que les données correspondantes ne seront traitées et publiées que dans la mesure où un nombre significatif d'Etats membres – tenant compte des données présentées dans le précédent rapport – y aura répondu, permettant une comparaison utile entre les systèmes.**

**91) Tribunaux de 1ère instance : nombre total d'affaires "autres que pénales". Si la donnée n'est pas disponible, indiquer NA. Si la situation n'est pas applicable dans votre pays, indiquer NAP.**

**Note 1: les affaires des catégories 3 à 5 (exécution, registres foncier et du commerce) doivent être présentées séparément dans le tableau. Les affaires de la catégorie 6 (administratives) doivent aussi être mentionnées séparément pour les pays disposant de tribunaux spécialisés, ayant des procédures spécifiques de droit administratif ou capables de distinguer affaires administratives et affaires civiles.**
**Note 2: vérifier la cohérence horizontale et verticale des données fournies. La cohérence horizontale des données signifie: "(affaires pendantes au 1er janvier 2010 + nouvelles affaires) – affaires terminées" doit correspondre au nombre d'affaires pendantes au 31.12.2010. La cohérence verticale des données signifie que la somme des catégories 1 à 7 doit correspondre au total des affaires "autres que pénales".**

| | Affaires pendantes au 1 janvier 2010 | Nouvelles affaires | Affaires terminées | Affaires pendantes au 31 décembre 2010 |
|---|---|---|---|---|
| Nombre total d'affaires "autres que pénales" (1+2+3+4+5+6+7)* | 207 740 | 682 727 | 732 325 | 158 142 |
| 1. Affaires civiles (et commerciales) contentieuses (si possible sans les affaires administratives, v. catégorie 6)* | 92 979 | 200 922 | 204 275 | 89 626 |
| 2. Affaires civiles (et commerciales) non contentieuses, par exemple des créances incontestées, de requêtes en changement de nom, etc. (si possible sans les affaires administratives ; sans les affaires relatives à l'exécution et/ou à un registre et/ou autres affaires, v. catégories 3-7)* | 57 747 | 400 514 | 461 650 | 6 611 |
| 3. Affaires relatives à l'exécution | 888 | 3 397 | 3 278 | 1 007 |
| 4. Affaires relatives au registre foncier** | NA | NA | NA | NA |
| 5. Affaires relatives au registre du commerce** | NA | 333 205 | 354 237 | NA |
| 6. Affaires administratives (contentieuses et non contentieuses) | 6 951 | 14 360 | 13 727 | 7 584 |
| 7. Autres affaires (par exemple affaires relatives au registre d'insolvabilité) | 49 175 | 63 534 | 59 395 | 53 314 |

**92) Si les tribunaux traitent des "affaires civiles (et commerciales) non contentieuses", veuillez indiquer les catégories incluses :**

There is a very wide range of the related categories. From the establishment of the fact of the death till the registry of the social organizations. The Code of the Cilvi procedure stipuletes some of them, for example the „Citation to Settlement Proceedings", „Preliminary Taking of Evidence", but other laws regulate these kind of procedures as well.

**93) Si "autres affaires", veuillez indiquer les catégories incluses :**

Insolvency registry cases, labour cases

**94) Tribunaux de 1ère instance : nombre d'affaires pénales. Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.**

**Note : Veuillez vérifier que les données fournies sont cohérentes (horizontalement et verticalement). La cohérence horizontale des données signifie que : "(affaires pendantes au 1er janvier 2010 + nouvelles affaires) – affaires terminées" doit correspondre au nombre d'affaires pendantes au 31 décembre 2010. La cohérence verticale des données signifie que la somme des catégories 8 et 9 en matière pénale doit correspondre au nombre total d'affaires pénales.**

| | Affaires pendantes au 1 janvier 2010 | Nouvelles affaires | Affaires terminées | Affaires pendantes au 31 décembre 2010 |
|---|---|---|---|---|
| Nombre total d'affaires pénales (8+9) | 73 890 | 269 691 | 267 257 | 76 324 |
| 8. Affaires pénales (infractions graves) | 55 904 | 149 222 | 146 787 | 58 339 |
| 9. Petites infractions | 17 986 | 120 469 | 120 470 | 17 985 |

**95) La classification entre affaires pénales graves et petites infractions peut être difficile. Certains pays peuvent connaître d'autres voies de traitement des petites infractions (par exemple par la procédure administrative).**
**----------**
**Veuillez indiquer, si possible, les catégories d'affaires comprises dans la catégorie infractions graves et les affaires à inclure dans la catégorie petites infractions :**

The crimes are stipulated in the Ac on the Criminal Code, the misdemeanour and /or minor criminal cases are stipulated in the Act of misdemeanour cases.

**96) Commentaires relatifs aux questions 91 à 95. Vous pouvez indiquer par exemple une situation particulière dans votre pays, expliquer vos réponses NA ou NAP ou expliquer le calcul du total d'affaires « autres que pénales » ou la différence au niveau de la cohérence horizontale etc.**

**97) Tribunaux de 2ème instance (appel) : Nombre total d'affaires « autres que pénales ». Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.**

**Note: le nombre total d'affaires « autres que pénales » inclut tous les catégories d'affaires présentés (chiffre 1 à 7).**

| | Affaires pendantes au 1 janvier 2010 | Nouvelles d'affaires | Affaires terminées | Affaires pendantes au 31 décembre 2010 |
|---|---|---|---|---|
| Nombre total d'affaires "autres que pénales" (1 + 2 + 3 + 4 + 5 + 6 + 7) | 13 083 | 53 039 | 52 829 | 13 293 |
| 1. Affaires civiles (et commerciales) contentieuses (si possible sans les affaires administratives, v. catégorie 6)* | 7 278 | 24 554 | 24 026 | 7 526 |
| 2. Affaires civiles (et commerciales) non contentieuses, par exemple des créances incontestées, de requêtes en changement de nom, etc. (si possible sans les affaires administratives ; sans les affaires relatives à l'exécution et/ou à un registre et/ou autres affaires, v. catégories 3-7)* | 3 696 | 19 666 | 19 732 | 3 630 |
| 3. Affaires relatives à l'exécution | 123 | 558 | 551 | 130 |
| 4. Affaires relatives au registre foncier | NA | NA | NA | NA |
| 5. Affaires relatives au registre du commerce | 95 | 301 | 343 | 53 |
| 6. Affaires administratives (contentieuses et non contentieuses) | 186 | 739 | 714 | 251 |
| 7. Autres affaires (par exemple affaires relatives au registre d'insolvabilité) | 1 705 | 7 181 | 7 183 | 1 703 |

**98) Tribunaux de 2ème instance (appel) : Nombre total d'affaires pénales. Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.**

| | Affaires pendantes au 1 janvier 2010 | Nouvelles d'affaires | Affaires terminées | Affaires pendantes au 31 décembre 2010 |
|---|---|---|---|---|
| Nombre total d'affaires pénales (8+9) | 5 884 | 42 710 | 41 796 | 6 825 |
| 8. Affaires pénales (infractions graves) | 5 858 | 42 019 | 41 082 | 6 795 |
| 9. Petites infractions | 26 | 691 | 687 | 30 |

Commentaire :

**99) Cours suprêmes : nombre total d'affaires "autres que pénales". Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.**

**Note: le nombre total d'affaires « autres que pénales » inclut tous les catégories d'affaires présentés (chiffre 1 à 7).**

| | Affaires pendantes au 1 janvier 2010 | Nouvelles d'affaires | Affaires terminées | Affaires pendantes au 31 décembre 2010 |
|---|---|---|---|---|
| Nombre total d'affaires "autres que pénales" (1 + 2 + 3 + 4 + 5 + 6 + 7) | 3 030 | 6 395 | 6 291 | 3 134 |
| 1. Affaires civiles (et commerciales) contentieuses (si possible sans les affaires administratives, v. catégorie 6) | 1 005 | 2 673 | 2 618 | 1 060 |
| 2. Affaires civiles (et commerciales) non contentieuses, par exemple des créances incontestées, de requêtes en changement de nom, etc. (si possible sans les affaires administratives ; sans les affaires relatives à l'exécution et/ou à un registre et/ou autres affaires, v. catégories 3-7) | 15 | 412 | 421 | 6 |
| 3. Affaires relatives à l'exécution | NA | NA | NA | NA |
| 4. Affaires relatives au registre foncier | NA | NA | NA | NA |
| 5. Affaires relatives au registre du commerce | 15 | 22 | 31 | 6 |
| 6. Affaires administratives (contentieuses et non contentieuses) | 934 | 1 991 | 1 900 | 1 025 |
| 7. Autres affaires (par exemple affaires relatives au registre d'insolvabilité) | 1 061 | 1 297 | 1 321 | 1 037 |

**100) Cours suprêmes : Nombre total d'affaires pénales. Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.**

| | Affaires pendantes au 1 janvier 2010 | Nouvelles d'affaires | Affaires terminées | Affaires pendantes au 31 décembre 2010 |
|---|---|---|---|---|
| Nombre total d'affaires pénales (8+9) | 160 | 1 364 | 1 322 | 202 |
| 8. Affaires pénales (infractions graves) | 160 | 1 364 | 1 322 | 202 |
| 9. Petites infractions | NA | NA | NA | NA |

Commentaire :

**101) Nombre d'affaires de divorces contentieux, licenciements, vols avec violence et homicides volontaires reçues et traitées par les tribunaux de 1ère instance. Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.**

| | Affaires pendantes au 1er janvier 2010 | Affaires nouvelles | Affaires terminées | Affaires pendantes au 31 décembre 2010 |
|---|---|---|---|---|
| Divorces contentieux | 14 506 | 33 608 | 34 043 | 14 143 |
| Licenciements | 2 974 | 5 146 | 4 849 | 3 271 |
| Vols avec violence | NA | NA | NA | NA |
| Homicides volontaires | NA | NA | NA | NA |

**102) Durée moyenne des procédures, en jours (à partir de la date de saisine du tribunal). Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.**
**----------**
**[La durée moyenne des procédures est calculée à partir de l'introduction du recours jusqu'au prononcé du jugement, sans tenir compte de la phase d'exécution. Nouveau : elle concerne la première, la deuxième et la troisième instance.]**

| | % des décisions ayant fait l'objet d'un appel | % d'affaires pendantes de plus de 3 ans | Durée moyenne en 1ère instance (en jours) | Durée moyenne en 2ème instance (en jours) | Durée moyenne en 3ème instance (en jours) | Durée moyenne de la procédure complète (en jours) |
|---|---|---|---|---|---|---|
| Divorces contentieux | 3 | NA | NA | NA | NA | NA |
| Licenciements | NA | NA | NA | NA | NA | NA |
| Vols avec violence | NA | NA | NA | NA | NA | NA |
| Homicides volontaires | NA | NA | NA | NA | NA | NA |

**103) Le cas échéant, veuillez préciser les procédures propres au divorce (contentieux et non contentieux) :**

Matrimonial Proceedings
Application of General Rules
Section 276
(1) The provisions of Chapters I-XIV shall apply to matrimonial proceedings subject to the exceptions set out in this Chapter.
(2) Matrimonial proceedings shall cover actions for voiding a marriage and for the annulment of a marriage, that is to say, actions
for establishing the validity or the existence or non-existence of marriage, as well as actions for the dissolution of a marriage.
(3) The provisions governing actions for annulment shall also apply to actions for establishing the validity, the existence or
non-existence of a marriage.
Jurisdiction
Section 277
(1)1
(2)2 In respect of matrimonial proceedings the court in whose jurisdiction the last home of the married couple was located shall
also be declared competent.
(3)3 If there is no Hungarian court considered to have jurisdiction for matrimonial proceedings neither under Section 29 nor under
this Section, the Pesti Központi Kerületi Bíróság (Pest Central District Court) shall handle such actions.
(4)4 Where matrimonial proceedings are already in progress, another action relating to the same marriage and an action for property
rights arising out of the matrimonial relationship must be heard by the same court.
Legal Status and Representation of the Persons Involved in the Action Section 278
In matrimonial proceedings the spouse with limited legal capacity shall have complete competency in legal proceedings.
Section 279
(1)5
(2) In matrimonial proceedings no intervention is allowed.
(3)6 In connection with matrimonial proceedings the signature on a power of attorney provided to a person other than a law firm or
an attorney, or the initials affixed on a power of attorney made to any person must be certified by a notary public.
(4)7 If the court has decided to examine the spouses' child of minor age, as an interested party in the action in accordance with
Section 74 of the Family Welfare Act, a guardian ad litem shall be appointed to the child in justified cases. Furthermore, the court
may decide to hear the child without the parents being present. These rules shall also apply to actions concerning the placement of a
child.
Section 280
8
Filing for Action

Section 281
(1)9 An action for annulment shall be filed by a spouse against the other spouse, or by the public prosecutor or a third party
authorized to bring action against both spouses. If the party against whom the action is to be brought is no longer alive, the guardian
ad litem appointed by the court shall be named as the defendant in the action. If the party has no competency in legal proceedings,
and there exists any conflict of interest between this person and his legal representative, the court shall appoint a guardian ad litem to
represent this party.
(2) In matrimonial proceedings Section 127 may not be applied.
Section 282
In front of the court of matrimonial proceedings a joint action may be filed only if it pertains to the annulment or dissolution of the
same marriage, or to the origin, placement or maintenance of a child, or if the action concerns property rights arising out of the
matrimonial relationship (Section 292).
Section 283 1)1 In matrimonial proceedings, the statement of claim shall contain information concerning the contracting of the marriage and
the birth of any living child from the marriage, and information to support the right for bringing the action to the extent
appropriate. The documents supporting the information supplied shall be enclosed with the statement of claim, except if they can be
verified by a personal identification document, however, this shall be indicated in the statement of claim.
(2)2
(3) The public prosecutor shall be notified that an action for annulment has been opened with a copy of the statement of claim
enclosed.
(4)3
Hearing and Taking of Evidence
Section 284 (1)4 In matrimonial proceedings the court may declare the hearing closed from the public at the party’s request, even if the
conditions set out in Section 5 do not exist. The court shall advise the parties of this fact.
(2)5 In matrimonial proceedings the plaintiff shall be entitled to withdraw his claim without the consent of the defendant at any
time during the proceeding. If the plaintiff has decided to withdraw his claim after the conclusion of the proceedings of the first
instance, but before the judgment becomes operative, the judgment shall be abolished by the court of the first instance before the
documents are forwarded due to an appeal, or by the court of the second instance in other cases.
(3)6 In matrimonial proceedings the court shall hear the spouses in person, unless an exemption is provided by law; the court may
also decide to keep a spouse away from the hearing of the other spouse.
Section 285
7
(1)8 In divorce cases, the court shall examine the parties present during the first hearing. If either of the spouses is placed under
guardianship, or his/her whereabouts are unknown, or if he/she is unable to appear before the court due to insurmountable obstacles,
the examination of such spouse in person is not mandatory.
(2) If the plaintiff fails to appear in person - save where Subsection (1) applies - at the first hearing, the case shall be dismissed.
(3) The court may attempt at any time during the proceedings to steer the parties towards reconciliation. If reconciliation is
successful, the court shall dismiss the case, and shall not decide as to the bearing of court costs.
(4)9 If during the first hearing in a divorce case the parties fail to settle their differences, the court - subject to the exception set
out in Subsection (5) - shall postpone the hearing, and shall advise the parties of their right to request continuation of the
proceedings within three months in writing, otherwise the case shall be dismissed. The court shall set the date of the next hearing
thirty days after the time of submission of the application.
(5)9 In the cases covered by Subsection (1), or if dissolution of the marriage was requested on the grounds set out in Paragraph b)
of Subsection (2) of Section 18 of Act IV of 1952 on Marriage, Families and Guardianship (Families Act), or the parties have no
child of minor age, the court shall proceed to hear the case on the merits during the first session.
Section 286
(1) The court may order the taking of evidence of its own motion where deemed necessary.
(2) In matrimonial proceedings a witness may not refuse to testify under Paragraph a) of Subsection (1) of Section 170, and
similarly, a doctor summoned as a witness may not refuse to testify under Paragraph c) of Subsection (1) of Section 170.

Section 287
In matrimonial proceedings the court, if the hearing is adjourned, shall decide of its own motion on a temporary basis where
appropriate concerning:
a) the placement and maintenance of a minor child;
b) the expansion or restriction of parental responsibility;
c) visitation rights between parent and child; or d) the use of residential property among the spouses.
Section 288
(1)1 If the defendant fails to appear at the first or any subsequent hearing of the matrimonial proceedings, the sanctions relating to
omissions shall not be applied. In the event of the plaintiff's omission the court shall dismiss the case, however, if the public
prosecutor functions as the plaintiff, the court shall set a new date of its own motion. Any plaintiff whose permanent residence is
located abroad may request the court to proceed with the hearing in his absence.
(2)2 No application for continuation will be accepted upon failure to meet the deadline for submission of the petition for review
past fifteen days from the last day of the deadline, or from the last day of the missed time limit even if the party was unaware of
having missed the deadline, or if the obstacle was not eliminated in due time. This rule shall also apply upon failure to meet the
deadline specified in Subsection (4) of Section 285.
(3)3 Matrimonial proceedings may be suspended in the cases covered by Paragraphs c) and d) of Subsection (1) of Section 137, and
Paragraph a) of Subsection (1) of Section 137 in divorce cases additionally.
Section 289
If either of the spouses dies before the final conclusion of the divorce action, the court shall dismiss the action without adopting a
decision as to the bearing of court costs, and shall abolish any judgment that may already have been returned in the case.
Decisions of the Court
Section 290
(1) If the marriage is annulled or dissolved, the court shall decide - if deemed necessary - concerning the placement and
maintenance of the couple's minor children even in the absence of a claim filed therefor.
(2)4 Where the dissolution of marriage is requested by the parties jointly under Paragraph a) of Subsection (2) of Section 18 of the
Families Act, the court may not decide concerning the dissolution of marriage before a settlement is reached in all issues defined
therein, and until such settlement is approved by way of a final court ruling. If the matrimonial action contains a request for
injunction from the bearing of name, it shall be decided simultaneously with the dissolution (annulment) of marriage. Partial verdict
is not allowed in neither of the above matters.
(3)5 In divorce actions the court shall take into consideration the interests of the parties' minor child when deliberating the approval
of a settlement, or in returning a judgment.
(4)6 In divorce actions the court shall decide as to the bearing of court costs upon weighing all applicable circumstances of the
case, regardless of who the winning party is.
(5)7 The decision adopted by the court of the first instance relating to the annulment of marriage shall be communicated to the
public prosecutor even if he was not involved in arguing the case, in which case the public prosecutor has the right to appeal the
judgment.
(6)8 The part of the decision adopted by the court of the first instance that is not contested by an appeal shall enter into effect after
fifteen days following the last day of the time limit for appeal.
(7)8 The court of the first instance shall deliver its decision in favor of the plaintiff to the competent registrar when it becomes final.
(8)9 The presiding judge acting in the first instance shall declare a decision for the dissolution or annulment of a marriage
partially enforceable before the documents of the case are forwarded to the court of the second instance.

**104) Comment est calculé le délai de procédure pour les quatre catégories d'affaires ? Veuillez décrire la méthode de calcul.**

The calculation of the length of the proceedings based on the related Rules of the National Council of Justice. In criminal cases that are under process the duration of the procedure shall be counted from the date of the submission of the initiating document. In case of criminal procedure where the proceedings of first or second instance are re-instituted due to repealing the original decision, the duration of the procedure shall be counted from the date of the original date of the submission of the case. The length of the suspension of the case should be

deducted from the duration.
In case of retrial and supervision of the case, in the reinitiated procedure the length of the basic procedure should not be taken into account.

In civil cases that are under process the the duration of the procedure shall be counted from the date of the submission of the initiating document to the court that provides the data. In civil procedures where the proceedings of first or second instance are re-instituted due to repealing the original decision, the duration of the procedure shall be counted from the date of the original date of the submission of the case. The length of the suspension of the case should be deducted from the duration. In case of retrial and supervision of the case, in the reinitiated procedure the length of the basic procedure should not be taken into account.

**105) Veuillez décrire le rôle et les attributions du procureur dans la procédure pénale (plusieurs choix possibles) :**

- [x] diriger ou superviser l'enquête policière
- [x] mener des enquêtes
- [x] quand cela est nécessaire, saisir le juge pour qu'il ordonne des mesures d'enquêtes
- [x] porter une accusation
- [x] soumettre l'affaire au tribunal
- [x] proposer une peine au juge
- [x] faire appel
- [x] superviser la procédure d'exécution
- [x] classer l'affaire sans suite, sans avoir besoin d'obtenir une décision du tribunal (observer la cohérence avec la question 36!)
- [x] clore l'affaire par une sanction ou une mesure imposée ou négociée sans décision d'un juge
- [x] autre attribution significative

Si "autres attributions significatives", veuillez préciser :

In the Republic of Hungary prosecution service is part of justice – including juvenile criminal justice – with an exceptional role in its system. Starting from the beginning of the criminal case up to the termination of penal law it has got an indispensable part; without public prosecution there is no adequate crime prevention, effective prosecution nor feasible criminal policy.The activity of the child- and youth protection prosecutor is a special field connected to children and juveniles, a group of persons protected through separately handled guarantees in the statutory instruments. Prosecutors in this field co-operate in the prosecution of crimes committed by a juvenile perpetrator, the observance of the specific procedural regulations and take the necessary child protection measures.

**106) Le procureur a-t-il également un rôle dans les affaires civiles et/ou administratives ?**

- (•) Oui
- ( ) Non

Si oui, veuillez préciser :

The duties of the prosecution service
The duties of the prosecution service - as described by the Constitution and the Act on the Prosecution Service - can be divided into two main areas. To one of these areas, which represent the larger part of the activities, belong the duties concerning criminal justice. In this context the prosecution service, as the authority to prosecute crimes, vindicates the claim of the State to punish the committed crimes. In this sphere of activities, the prosecution service carries out investigations in cases specified by law, supervises the legality of investigations, represents the prosecution in court proceedings and is responsible for the supervision of the legality of the execution of punishments.
The other area of the activities is exceedingly widespread. All the duties accomplished by the prosecutor in the fields of civil law, administrative law, labour law or the law of economy belong to this area. The aim of these activities is the contribution to the observance of the law, to the uniform interpretation and application of the law, furthermore to the protection of human and civil rights. According to the Constitution, the Act on the Prosecution Service and other laws, the prosecutor provides the supervision of legality of the activities of public administrative authorities, of the measures taken by the employer in labour relations, of the functioning of civil organisations, associations and foundations.
In the course of his civil law activities the prosecutor shall initiate contentious or non-contentious legal proceedings in cases provided by law. The prosecutor pays special attention to the initiation of legal actions for the prohibition of pollution, for the compensation of damages caused by pollution, for the restoration of the lawful functioning of foundations and associations, and for the winding-up of non-functioning organisations.

**107) La gestion des affaires par le procureur: ombre total des affaires pénales en 1ère instance. Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.**

| | Reçues par le procureur | Classées sans suite par le procureur (v. 108 ci-dessous) | Terminées par une sanction ou par une mesure imposée ou négociée par le procureur | Portées par le procureur devant les tribunaux |
|---|---|---|---|---|
| Nombre total d'affaires pénales de 1ère instance | 222 223 | 30 957 | 10 590 | 180 676 |

**108) Total des affaires classées sans suite par le procureur. Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.**

| | Nombre |
|---|---|
| Total des affaires classées sans suite par le procureur (1 + 2 + 3) | 30 957 |
| 1. Classées sans suite par le procureur parce que l'auteur de l'infraction n'a pas pu être identifié | 8 278 |
| 2. Classées sans suite par le procureur en raison d'une impossibilité de fait ou de droit | 22 679 |
| 3. Classées sans suite par le procureur pour raison d'opportunité | NAP |

**109) Est-ce que ces données incluent le contentieux routier ?**

☑ Oui

☐ Non

**D.2**
**Vous pouvez indiquer ci-dessous :**
**- tout commentaire utile pour l'interprétation des données indiquées dans ce chapitre**
**- les caractéristiques de votre système concernant la durée des procédures et les réformes majeures mises en œuvre au cours des deux dernières années**

Q109:The table includes traffic offences. The third column includes traffic offences discontinued as a criminal case, but continued as a minor offence case by a different state institution.

Questions 91, 98, 99, 100 : Je ne peux pas donner aucune explication à ces questions, car les chiffres indiqués

nous ont été fourniés par les tribunaux et ces chiffres ne relevent pas d'un phénomene explicable.

Qusetion 107 : Je ne peux pas donner aucune explication à ces questions, car les chiffres indiqués nous ont été fourniés par les parquets et ces chiffres ne relevent pas d'un phénomene explicable.

**Veuillez indiquer les sources pour les réponses aux questions 91, 94, 97, 98, 99, 100, 101, 102, 107 et 108.**

Q91, 94, 97, 98, 99, 100, 101, 102: National Council of Judiciary
Q107 and 108: Office of the Prosecutor General

# 5. Carrière des juges et procureurs

## 5. 1. Recrutement et promotion

### 5. 1. 1. Recrutement et promotion

**110) Comment les juges sont-ils recrutés ?**

- [x] Principalement par concours (par exemple après un diplôme universitaire en droit)
- [ ] Principalement par une procédure de recrutement spécifique pour des professionnels du droit ayant une longue expérience professionnelle dans le domaine juridique (par exemple des avocats)
- [ ] Une combinaison des deux (concours et expérience professionnelle)
- [ ] Autres

Si autres, veuillez préciser:

Law graduates wishing to become judges have to pass three years at court as trainee judges (1st stage) and then one year as a court secretary (2nd stage of traineeship).
How can one become a trainee judge? In possession of a law degree, one might apply for a competetive exam announced by the Hungarian Academy for Judges for those wishing to become trainee judges. Having passed the exam (both written and oral) succesfully, one might apply for a concrete position as a trainee judge. If the application is not successful, the candidate is put on a waiting list and can use his/her exam results for a year in case of new applications.
Candidate judges who have passed both stages of traineeship are invited to submit their application to the president judge of the given court, where they would like to apply. The court president, upon proposal of the National Council of Justice, transmits the application to the President of the Republic, who shall ultimately appoint jduges.

**111) Autorité(s) responsable(s): les juges sont-ils recrutés et nommés, initialement, en début de carrière, par :**

**[Cette question ne concerne que l'autorité qui est responsable de la décision de recrutement (elle ne touche pas l'autorité formellement responsable de la nomination si elle est différente de la première).]**

- [x] Une instance composée seulement de juges?
- [ ] Une instance composée seulement de non juges?
- [ ] Une instance composée de juges et de non juges?

Veuillez indiquer le nom de l'autorité responsable de la procédure globale de recrutement et de nomination des juges. S'il existe plusieurs autorités impliquées, veuillez décrire leurs rôles respectifs :

National Council of Justice

According to the Act LXVII of 1997 on the Legal Status and Remuneration of Judges
Section 2.

Judges are appointed and recalled by the President of the Republic.

Section 14.
(1) A judge, when first appointed, shall be assigned by the NJC. Subsequent assignments shall be made by the Chief Justice of the Supreme Court when appointed to the Supreme Court, by the president judge of the high court of appeal when appointed to the high court of appeal, and by the president judge of the county court when appointed to a local court, employment tribunal or county court.
(2) The NJC shall - at the recommendation of the president judge - assign judge advocates to military tribunals and to other judicial offices under Subsection (3) of Section 61 when their professional service relation with the Hungarian Army ends.

Section 15.
The NJC may assign a judge - upon his consent - to the Supreme Court by recommendation of the Chief Justice of the Supreme Court, to the NJC Bureau (hereinafter referred to as "Bureau"), or to the Ministry of Justice in agreement with the Minister of Justice.
According to the Act LXVII of 1997 on the on the Organizational and Administrative Structure of Courts

Section 40.
(1) The NJC shall convey its prior opinion concerning the person nominated for the office of Chief Justice and Deputy Chief Justice of the Supreme Court.
(2) The NJC shall have powers to appoint and recall
a) the president judges of high courts of appeal and their deputies,
b) the president judges of county courts and their deputies,
c) the chiefs of divisions,
d) the director and deputy director of the Bureau.

**112) La même instance est-elle compétente pour la promotion des juges ?**

- ○ Oui
- ◉ Non

Si non, quelle instance est compétente pour la promotion des juges ?

Candidates shall submit their application for promotion to the president of the court concerned or the National Council of Justice.A judge, when first appointed, shall be assigned by the National Council of Justice. Subsequent assignments shall be made by the Chief Justice of the Supreme Court when appointed to the Supreme Court, by the president judge of the high court of appeal when appointed to the high court of appeal, and by the president judge of the county court when appointed to a local court, employment tribunal or county court.

**113) Quels critères et procédures sont utilisés pour promouvoir les juges ? Veuillez préciser:**

Individual tender notices specify the detailed requirements for the position to be filled. Applications shall be submitted to the president judge of the court where the position is open; The president judge shall interview the applicants and consult the competent members of the judiciary. The following criteria are important: the term of office of the trainee judge period, the court clerk period, the result of the evaluation process; in case of application to the position of the county court, regional court, Supreme Court the opinion of the related Devision of the court.

**114) Existe-t-il un système d'évaluation individuelle qualitative de l'activité professionnelle du juge ?**

- ◉ Oui
- ○ Non

**115) Le statut du ministère public est-il:**

- ☑ Indépendant?
- ☐ Sous l'autorité du ministre de la Justice?

☐ Autre?

Veuillez préciser:

The Prosecutor General is accountable only to the Parliament and is obliged to report on the activities of the prosecution service to the Parliament on an annual basis. This report is debated and voted on by the MPs, though no sanctions are provided in the Constitution or any other Act in case of refusal. Interpellations and questions may also be addressed by MPs to the Prosecutor General, which he is bound to answer. As different interpretations arose concerning the legal status and accountability of the Prosecutor General, he submitted a motion to the Constitutional Court asking for guidance on the provisions of the Constitution. In its decision of February 16, 2004 (383/G/2003) the Constitutional Court stated that, although the Prosecutor General may be questioned on both general matters and specific cases, the scope of his replies is restrained by two factors. Namely, the content of his answer should not infringe fundamental constitutional rights of individual citizens such as the right to a good reputation or privacy of personal data and should not endanger the fulfilment of constitutional tasks of the prosecution service, for instance should not expose the facts of an ongoing investigation. The Court also pronounced that the Prosecutor General and the prosecution service are not subordinate to the Parliament. Accordingly no instruction, whether it is direct or oblique, may be issued to them by the Parliament or a Committee of a Parliament in relation to a particular decision. The Prosecutor General is not politically accountable for his decisions in particular cases, and may not be called to account or be discharged when Parliament does not accept his answer to a question. The activities of the prosecution service may only be influenced by Parliament through legislation, and the only possible way of taking action against the Prosecutor General, on the basis of dissatisfaction with his official activities, is to not re-elect him upon the completion of his term. Before the end of his term, the Prosecutor General may only be discharged in the case of having been convicted for committing a crime or having become incapable of fulfilling his duties.

**116) Comment sont recrutés les procureurs ?**

☐ Principalement par concours (par exemple après un diplôme universitaire en droit)

☐ Principalement par une procédure de recrutement spécifique pour des professionnels du droit ayant une longue expérience juridique (par exemple des avocats)

☑ Une combinaison des deux (concours et expérience professionnelle)

☐ Autres

Si "autres", veuillez préciser:

After the receipt of a law degree prosecutor trainees are recruited through a competitive exam.

As the Prosecution Service of the Republic of Hungary trains its own trainees, the prosecutors are recruited from amongst them. Application to employment as a public prosecutor from outside the Prosecution Service is rare, although possible for anybody with a University Degree in Law, and a successful Second State Exam in Law.

**117) Autorité(s) responsable(s): les procureurs sont-ils recrutés et nommés, en début de carrière, par :**

**[Cette question ne concerne que l'autorité qui est responsable de la décision de recrutement (elle ne touche pas l'autorité formellement responsable de la nomination si elle est différente de la première).]**

☑ Une instance composée seulement de procureurs ?

☐ Une instance composée seulement de non procureurs?

☐ Une instance composée de procureurs et de non procureurs?

Veuillez indiquer le nom de l'autorité responsable de la procédure globale de recrutement et de nomination des procureurs. S'il y plusieurs autorités impliquées, veuillez décrire leurs rôles respectifs :

The prosecutor general

**118) La même instance est-elle compétente pour la promotion des procureurs ?**

◉ Oui

○ Non

Si non, veuillez préciser quelle instance est compétente pour la promotion des procureurs

**119) Quels critères et procédures sont utilisés pour promouvoir les procureurs? Veuillez préciser:**

Procedure: Public prosecutors are chosen and promoted by the Prosecutor General of the Republic of Hungary. He/She consults the Council of Prosecutors ahead of the decision.

Criteria for employment: 1) Clean criminal record, 2) Hungarian citizenship 3) University degree in law, Second State Exam in Law 4) At least one year spent as a 'trainee in the 2nd stage of training (titkár)' or in a similar position that requires a Second State Exam in Law 5. Aptitude test(health, mental, physical) 6. Declaration about wealth and assets
+ The applicants are checked by the National Security Office (NBH)

Criteria for promotion: 1)Personal qualities 2) Work experience.

**120) Existe-t-il un système d'évaluation individuelle qualitative de l'activité professionnelle du procureur ?**

- (●) Oui
- ( ) Non

**121) Le mandat des juges est-il à durée indéterminée (à savoir "à vie" = jusqu'à l'âge officiel de la retraite) ?**

- (●) Oui
- ( ) Non

Si oui, existe-t-il des exceptions ? (ex: la révocation comme sanction disciplinaire) ? Veuillez préciser :

As a general rule the first appointment is for three years, appointment for an undetermined period thereafter is conditional upon performance during the three-year long probational period.

**122) S'il existe une période probatoire pour les juges (par exemple avant d'être nommé "à vie"), quelle en est la durée ? Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.**

| | Durée de la période probatoire (en années) |
|---|---|
| | 3 |

**123) Le mandat des procureurs est-il à durée indéterminée (à savoir « à vie » = jusqu'à l'âge officiel de la retraite) ?**

- (●) Oui
- ( ) Non

Si oui, existe-t-il des exceptions (la révocation comme sanction disciplinaire) ? Veuillez préciser :

After the first three years as a prosecutor, the Prosecutor General of the Republic of Hungary appoints the Public Prosecutor for an undetermined period.

**124) S'il existe une période probatoire pour les procureurs, quelle en est la durée? Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.**

| | Durée de la période probatoire (en années) |
|---|---|
| | 3 |

**125) Si le mandat n'est pas à durée indéterminée pour les juges (voir question 121), est-il renouvelable ? Quelle est la durée du mandat (en années)?**

NAP

**126) Si le mandat n'est pas à durée indéterminée pour les procureurs (voir question 123), est-il renouvelable ? Quelle est la durée du mandat (en années)?**

NAP

**E.1**
**Vous pouvez indiquer ci-dessous :**
**- tout commentaire utile pour l'interprétation des données indiquées dans ce chapitre**
**- les caractéristiques de votre système de sélection et de nomination des juges et des procureurs et les réformes majeures mises en œuvre au cours des deux dernières années**

Q122
According to the Act LXVII of 1997 on the Legal Status and Remuneration of Judges
Section 11.
(1) Subject to the exceptions set out in Subsection (2) of this Section and Subsection (5) of Section 12, the term of a judge appointed for the first time (first-term judge) shall be three years; in all other cases it shall be indefinite.
(2) The first appointment of a judge shall - by recommendation of the NJC - be for an indeterminate term if
a) the candidate has worked at least three years - unless otherwise prescribed by law - as a judge or judge advocate,
b) the candidate worked before the appointment for at least five years as a constitutional court justice, district attorney, notary public, attorney at law, legal counsel or in a position at a central administrative agency under Act XXIII of 1992 on the Legal Status of Civil Servants for which an civil service or bar examination is required,
c) the candidate has outstanding theoretical legal expertise in the fields of science or education, or
d) the conditions laid down in Subsection (5) of Section 2 of Act LV of 1990 on the Legal Status of Members of Parliament apply.

## 5. 2. Formation

### 5. 2. 1. Formation

**127) Formation des juges**

| | |
|---|---|
| Formation initiale (par exemple fréquentation d'une école de la magistrature, stage dans un tribunal) | Compulsory |
| Formation continue générale | Optional |
| Formation continue pour des fonctions spécialisées (ex. juge pour les affaires économiques ou administratives) | Optional |
| Formation continue pour des fonctions spécifiques de gestion (ex. présidence d'un tribunal) | Optional |
| Formation continue pour l'utilisation des outils informatiques au sein des tribunaux | Optional |

**128) Fréquence de la formation continue des juges:**

| | |
|---|---|
| Formation continue générale | Regular (e.g. every 3 months) |
| Formation continue pour des fonctions spécialisées (ex. juge pour les affaires économiques ou administratives) | Regular (e.g. every 3 months) |
| Formation continue pour des fonctions spécifiques de gestion (ex. présidence d'un tribunal) | Regular (e.g. every 3 months) |
| Formation continue pour l'utilisation des outils informatiques au sein des tribunaux | Regular (e.g. every 3 months) |

**129) Formation des procureurs**

| | |
|---|---|
| Formation initiale | Compulsory |
| Formation continue générale | Optional |
| Formation continue pour des fonctions spécialisées (ex. procureur spécialisé en crime organisé) | Optional |
| Formation continue pour des fonctions spécifiques de gestion (ex. Procureur Général, administrateur) | Optional |
| Formation continue pour l'utilisation des outils informatiques au sein des tribunaux | Optional |

**130) Fréquence de la formation continue des procureurs :**

| | |
|---|---|
| Formation continue générale | Regular (e.g. every 3 months) |
| Formation continue pour des fonctions spécialisées (ex. procureur spécialisé en crime organisé) | Regular (e.g. every 3 months) |
| Formation continue pour des fonctions spécifiques de gestion (ex. Procureur Général, administrateur) | Regular (e.g. every 3 months) |
| Formation continue pour l'utilisation des outils informatiques au sein des tribunaux | Occasional (e.g. at times) |

**131) Disposez-vous d'(une) institution(s) publique(s) chargée(s) de la formation des juges et des procureurs? Si oui, quel est le budget de cette (ces) institution(s) ?**
**Si vos institutions de formation judiciaire ne répondent pas à ces critères, veuillez le préciser.**

| | Formation initiale seulement | Formation continue seulement | Formation initiale et continue |
|---|---|---|---|
| Une institution pour les juges | Non | Non | Oui |
| Une institution pour les procureurs | Non | Non | Oui |
| Une institution commune pour juges et procureurs | Non | Non | Non |

Commentaire :
Judges: 247 356 EUR
Prosecutors: 401 202 EUR

**E.2**
**Vous pouvez indiquer ci-dessous :**
**- tout commentaire utile pour l'interprétation des données indiquées dans ce chapitre**
**- des commentaires sur l'attention portée dans les curricula à la Convention européenne des Droits de l'Homme et à la jurisprudence de la Cour**
**- les caractéristiques de votre système de formation des juges et des procureurs et les réformes majeures mises en œuvre au cours des deux dernières années**

Prosecutor's training:
Participation in the basic and further trainings is both right and obligation for the members of the prosecution service. The participation is free of charge.

Basic training takes five semester during the three-year term of trainee-period whose aim is to prepare for the special legal examination or to acquire theoretical and practical knowledge for pursuing prosecutorial work professionally.

After the nomination of junior prosecutor there is a two-semester special prosecutorial training that is finished by a professional prosecutor examination.

From 1st January 2006. the basic training is provided by the Hungarian Centre for the Training of Prosecutors including the training of the instructors and trainees too. The further training of the prosecutors is directed by the Department for Professional Training of the Office of the Prosecutor General.

Further Training:
(1) there is 20-25 courses and seminars within a year for 600 prosecutors (approx.) relating to current questions of application of the law organised by the Department for Professional Training of the Prosecutor General.
(2) 250 (approx.) prosecutors take part in courses staged by other Hungarian judicial organisations;
(3) several prosecutors study within the frame of a five-semester postgraduate vocational lawyer training (at the field of criminology, of traffic law, of economic criminal law, etc.). These are supported by the prosecution service. The 15 percent of the prosecutors has second diploma.
(4) 100-120 prosecutors take part in the training programmes organised abroad for the period from 1 week until 3 weeks, mainly in the programmes suggested by the EJTN and in the base of bilateral relationships (ERA, CEPOL, ENM (France), Deutsche Richterakademie, etc.).

Annually almost 1000 prosecutors participate in organised further trainings. Their costs are paid by the budget of the prosecution service.

Judges' training:
There is a special training project prepared by the National Council of Justice. A new institution was established – so called Training Center of Judges – which is responsable for the high level training of the judicial employees. By the way, education was one of the most important factor for preparing to the European Union membership, since the EU member Hungary must participate in the judicial cooperation in civil and criminal cases and hungarian courts has to apply and enforce not only the national law but the acqui as well.

## 5. 3. Exercice de la profession

### 5. 3. 1. Exercice de la profession

**132) Salaires des juges et des procureurs.**

| | Salaire annuel brut (€), en €, au 31 décembre 2010 | Salaire annuel net (€), en €, au 31 décembre 2010 |
|---|---|---|
| Juge professionnel de 1ère instance au début de sa carrière | 18 252 | 10 647 |
| Juge de la Cour suprême ou de la dernière instance de recours (veuillez indiquer le salaire moyen d'un juge de ce niveau, non pas le salaire du président de la cour) | 37 986 | 19 864 |
| Procureur au début de sa carrière | 16 852 | 9 828 |
| Procureur auprès de la Cour suprême ou de la dernière instance de recours (veuillez indiquer le salaire moyen d'un procureur de ce niveau, non pas le salaire du Procureur Général). | 35 067 | 18 336 |

Commentaire :
Gross annual salary on Net annual salary

Supreme Court President: 66909 EUR 34793 EUR

Prosecutor General: 61388 EUR 31922 EUR

**133) Les juges et les procureurs bénéficient-ils des avantages complémentaires suivants :**

| | Juges | Procureurs |
|---|---|---|
| Imposition réduite | Non | Non |
| Retraite spécifique | Non | Non |
| Logement de fonction | Non | Non |
| Autre avantage financier | Oui | Oui |

**134) Si autre avantage financier, veuillez préciser:**

Judges and prosecutors have additional benefits such as meal contribution, on-duty bonus, housing allowances, resettlement assistance, social and
schooling aid, family support, scholarship, aid for training, contribution for life and
pension, supplementary insurance.

**135) Un juge peut-il cumuler son travail avec les autres fonctions suivantes :**

| | Rémunéré | Non rémunéré |
|---|---|---|
| Enseignement | Oui | Non |
| Recherche et publication | Oui | Non |
| Arbitrage | Non | Non |
| Consultant | Non | Non |
| Fonction culturelle | Oui | Non |
| Fonction politique | Non | Non |
| Autre fonction | Non | Non |

**136) Si des règles existent dans votre pays (par exemple, une autorisation est exigée pour exercer une fonction), veuillez les préciser. Si « autre fonction », veuillez préciser :**

Judges can also combine their work with artistic and design activities.
According to the Act LXVII of 1997 on the Legal Status and Remuneration of Judges
Judges in office may not engage in any other gainful activities with the exception of scientific, artistic, literary, educational and design activities; these activities, however, may not jeopardize his objectivity and impartiality or give the appearance of such impropriety; nor may they interfere with the judge's official responsibilities.
Judges may not hold any executive office or membership in the supervisory board of a business association or cooperation; nor may they be members of a business association requiring personal involvement or unlimited liability.
Judges shall report their involvement in the activities referred to in Subsection (1) to the president judge of the court before their involvement commences.
Judges may not be members of arbitration tribunals.

**137) Un procureur peut-il cumuler son travail avec les autres fonctions suivantes :**

| | Rémunéré | Non rémunéré |
|---|---|---|
| Enseignement | Oui | Non |
| Recherche et publication | Oui | Non |
| Arbitrage | Non | Non |
| Consultant | Non | Non |
| Fonction culturelle | Oui | Non |
| Fonction politique | Non | Non |
| Autre fonction | Non | Non |

**138) Précisions s'il existe des règles particulières (par exemple autorisation nécessaire pour exercer tout ou partie de ces activités). Si « autre fonction », veuillez préciser :**

Prosecutors can also combine their work with artistic and design activities.

**139) Prime de productivité : les juges ont-ils droit à des primes en fonction du respect d'objectifs quantitatifs de production de décisions (par exemple nombre de jugements rendus pour une période donnée) ?**

- ○ Oui
- ◉ Non

Si oui, veuillez préciser les conditions et éventuellement les montants:

## 5. 4. Procédures disciplinaires

### 5. 4. 1. Procédures disciplinaires

**140) Qui peut engager des procédures disciplinaires contre les juges (choix multiples possibles) ?**

- [ ] Citoyens
- [x] Tribunal concerné ou supérieur hiérarchique
- [ ] Cour suprême
- [x] Conseil Supérieur de la Magistrature
- [ ] Tribunal ou autorité disciplinaire
- [ ] Médiateur
- [ ] Parlement
- [ ] Pouvoir exécutif
- [ ] Autre ?
- [ ] Ceci n'est pas possible

Si "pouvoir exécutif" ou/et "autre", veuillez préciser :

In the event of any allegation of professional misconduct, disciplinary proceedings shall be initiated
a) by the NJC in the case of executives who fall within the appointment authority of the NJC,
b) by the Chief Justice of the Supreme Court in the case of Supreme Court justices,
c) by the president judge of the high court of appeal in the case of judges of the high court of appeal,
d) by the president judge of the county court in the case of local court judges and county court judges with the president judge of the disciplinary tribunal vested with competence and jurisdiction.

**141) Qui peut engager des procédures disciplinaires contre les procureurs (choix multiples possibles) :**

- [ ] Citoyens
- [ ] Chef de l'unité organisationnelle ou supérieur hiérarchique
- [x] Procureur Général/Procureur d'Etat
- [ ] Conseil Supérieur de la Magistrature
- [ ] Tribunal ou autorité disciplinaire
- [ ] Médiateur
- [ ] Organisme professionnel
- [ ] Pouvoir exécutif
- [ ] Autre?
- [ ] Ceci n'est pas possible

Si "pouvoir exécutif" ou/et "autre", veuillez préciser :

**142) Quelle autorité détient le pouvoir disciplinaire à l'encontre des juges? (plusieurs options possibles)**

- [ ] Tribunal
- [ ] Cour suprême
- [ ] Conseil Supérieur de la Magistrature
- [x] Tribunal ou autorité disciplinaire
- [ ] Médiateur
- [ ] Parlement
- [ ] Pouvoir exécutif
- [ ] Autre?

Si "pouvoir exécutif" ou/et "autre", veuillez préciser :

According to the Act LXVII of 1997 on the Legal Status and Remuneration of Judges:
Disciplinary Tribunals
Section 67.
The disciplinary board of the disciplinary tribunal shall decide whether to initiate disciplinary proceedings, refuse to hold disciplinary proceedings, or order a preliminary examination; the disciplinary board shall notify the judge affected of its decision.
Section 68.
(1) County courts and high courts of appeal shall operate disciplinary tribunals in the first instance, and the Supreme Court shall operate disciplinary tribunals in the first and second instances.
(2) Disciplinary cases of judges and the compensation cases in connection with these shall be heard in the first instance by
a) the disciplinary tribunal of the first instance of the Supreme Court in the case of executives who fall within the appointment authority of the NJC and Supreme Court justices;
b) the disciplinary tribunal of the high court of appeal in the case of judges of the high court of appeal;
c) the disciplinary tribunal of the county court in the case of local court and county court judges.
(3) Appeals lodged against the decisions of the disciplinary tribunals referred to in Subsection (2) shall be heard by the Supreme Court disciplinary tribunal of the second instance.
Section 69.
(1) The president judge and the seven members of the disciplinary tribunal shall be elected for six years by the plenary session of judges of the competent county court and high court of appeal and by the full council of the Supreme Court.
(2) Candidates for the president judge and members of the disciplinary tribunal must have at least five years of experience as judges, must not have been penalized by a disciplinary action and must not have been implicated in disciplinary proceedings. The members of the NJC as well as the president judges authorized to initiate disciplinary proceedings and their deputies may not be elected to these offices.
Section 70.
(1) A disciplinary tribunal shall consist of a three-member panel (hereinafter referred to as "disciplinary board") formed by the president judge of the disciplinary tribunal.
(2) Preparations for disciplinary proceedings shall be made by an investigative officer.
(3) The president judge of the disciplinary tribunal shall prepare a roster at the end of the year for the next calendar year laying down the sequence in which the disciplinary arbitrators are to function as investigative officers.

**143) Quelle autorité détient le pouvoir disciplinaire à l'encontre des procureurs ? (plusieurs options possibles)**

- [ ] Cour suprême
- [ ] Chef de l'unité organisationnelle ou supérieur hiérarchique
- [x] Procureur Général/Procureur d'Etat
- [ ] Conseil Supérieur de la Magistrature
- [ ] Tribunal ou autorité disciplinaire
- [ ] Médiateur
- [ ] Organisme professionnel
- [ ] Pouvoir exécutif
- [ ] Autre ?

Si "pouvoir exécutif" ou/et "autre", veuillez préciser :

**144) Nombre de procédures disciplinaires intentées à l'encontre des juges et des procureurs. Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP. Si "autre", veuillez le préciser dans la boîte "commentaire" ci-dessous.**

**[Si la procédure disciplinaire est intentée sur la base de plusieurs manquements, veuillez ne compter ces procédures qu'une seule fois, pour le manquement principal.]**

| | Juges | Procureurs |
|---|---|---|
| Nombre total (1+2+3+4) | 14 | 6 |
| 1. Faute déontologique | 4 | 6 |
| 2. Insuffisance professionnelle | 10 | NA |
| 3. Délit pénal | NA | NA |
| 4. Autre | NA | NA |

Commentaire :

**145) Nombre de sanctions prononcées à l'encontre des juges et des procureurs. Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.**

**Si « autre », veuillez le préciser dans la boîte "commentaire" ci-dessous. S'il existe une disparité entre le nombre de procédures disciplinaires intentées et le nombre de sanctions prononcées, veuillez préciser les raisons dans la boîte "commentaire" ci-dessous.**

| | Juges | Procureurs |
|---|---|---|
| Nombre total (total 1 à 9) | 8 | 5 |
| 1. Réprimande | 3 | 5 |
| 2. Suspension | NA | NA |
| 3. Révocation | NA | NA |
| 4. Amende | NA | NA |
| 5. Diminution de salaire temporaire | 4 | NA |
| 6. Rétrogradation de poste | NA | NA |
| 7. Mutation dans un autre tribunal géographiquement | NA | NA |
| 8. Démission | 1 | NA |
| 9. Autre | NA | NA |

Commentaire :

**E.3**
**Vous pouvez indiquer ci-dessous :**
**- tout commentaire utile pour l'interprétation des données indiquées dans ce chapitre**
**- les caractéristiques de votre système de procédures disciplinaires pour les juges et les procureurs et les réformes majeures mises en œuvre au cours des deux dernières années**

**Veuillez indiquer les sources aux questions 144 et 145**

National Council of Judiciary
Office of the Prosecutor General

# 6. Avocats

## 6. 1. Statut de la profession et formation

### 6. 1. 1. Statut de la profession et formation

**146) Nombre d'avocats exerçant dans votre pays.**

12 099

**147) Ce nombre inclut-il la catégorie « conseiller juridique » (« solicitor/in-house counsellor ») qui ne peut pas représenter en justice ?**

- ○ Oui
- ◉ Non

**148) Nombre de conseillers juridiques qui ne peuvent pas représenter en justice**

NAP

**149) Les avocats ont-ils le monopole de la représentation en justice ? (plusieurs options sont possibles) pour les :**

- ☐ Affaires civiles
- ☐ Affaires pénales - Défendeur
- ☐ Affaires pénales - Victime
- ☐ Affaires administratives
- ☑ Il n'y a pas de monopole

En cas d'absence de monopole, veuillez préciser les organismes ou personnes pouvant représenter les clients devant un tribunal (par exemple une ONG, un membre de la famille, un syndicat, etc.…) et pour quelles affaires :

Lawyers have a monopoly of representation in civil cases before the appeal courts and the Supreme Court, but not before local and county courts.
Lawyers as defendants have a monopoly of representation in criminal cases during the whole length of criminal proceedings.
Victims of criminal cases can be represented by their family members.
The parties to administrative proceedings can be represented by any person having the mandate of the parties.
The regulation on criminal procedures prescribes the presence of a defence attorney in the following cases:

* a criminal offence for which the law prescribes five or more years of imprisonment,
* the accused is being detained,
* the accused is deaf, mute, blind or – regardless of his/her legal capacity – mentally incompetent,
* the accused does not know the Hungarian language or the language of the proceedings,
* the accused is not able to personally defend himself/herself for other reasons,
* it is especially prescribed by law (e.g. in case of an accused minor).

The regulation of civil procedures prescribes legal representation in the following cases:

* for the parties submitting an appeal against a judgement in proceedings before the Court of Appeal as well as rulings made on the merits of the case or an appeal or petition for review specified by law in proceedings before the Supreme Court,
* in other cases defined by law (e.g. company law).
Source: http://ec.europa.eu/civiljustice/legal_prof/legal_prof_hun_en.htm

As a general rule, a case of first instance can be brought to court directly, it is not necessary to consult a lawyer. Section 73/A of Act III of 1952 on the Code of Civil Procedure lists the cases where the participation of a lawyer is obligatory. These are typically in connection with appeals procedures to be conducted before higher courts. In these cases the proceedings of the party proceeding without a legal representative are of no effect, therefore - in order to avoid this - the parties are usually represented by a lawyer in the proceedings.

There is of course the possibility of submitting the application by another authorised representative (a lawyer, for example) appointed by the party or its legal representative. If, however, the law provides otherwise and for example for the law makes personal participation obligatory in the relevant action, it is not possible to proceed via an authorised representative. The rules regarding who may be an authorised representative, who is excluded from the list of possible authorised representatives and the exact rules of authorisation are laid down in the Act on the Code of Civil Procedure, among the rules of representation.
Source: http://ec.europa.eu/civiljustice/case_to_court/case_to_court_hun_en.htm

**150) La profession d'avocat est-elle organisée à travers (plusieurs réponses possibles):**

- [x] un barreau national ?
- [x] un barreau régional ?
- [ ] un barreau local ?

**151) Existe-t-il une formation initiale ou un examen spécifique pour accéder à la profession d'avocat ?**

- [x] Oui
- [ ] Non

Si non, veuillez indiquer s'il existe d'autres exigences spécifiques en matière de diplôme ou de niveau universitaire :

**152) Existe-t-il un système de formation continue générale obligatoire pour les avocats ?**

- [x] Oui
- [ ] Non

**153) La spécialisation dans certains domaines est-elle liée à certaines formations, à un certain niveau de compétence, à un certain diplôme ou à certaines autorisations ?**

- [ ] Oui
- [x] Non

Si oui, veuillez préciser :

**F.1**
**Veuillez indiquer les sources aux questions 146 et 148 :**
**---------**
**Commentaires utiles à l'interprétation des données indiquées dans ce chapitre :**
Statistical database of the Hungarian Bar Association (as of 31 December 2010)

Q146 : Etant donné que l'avocat est une profession libérale, un grand nombre des étudiants sortant de la faculté de droit y commence leur carriere.

## 6. 2. Exercice de la profession

### 6. 2. 1. Exercice de la profession

**154) Pour le justiciable, existe-t-il une transparence sur les honoraires prévisibles des avocats (à savoir, est-ce que les usagers peuvent aisément obtenir des informations préalables sur le montant des honoraires prévisibles, sont-ils transparents et loyaux) ?**

- [x] Oui
- [ ] Non

**155) Les honoraires des avocats sont-ils librement négociés ?**

- [x] Oui
- [ ] Non

**156) La loi ou les règlements du Barreau contiennent-ils des règles sur les honoraires des avocats (même s'ils sont librement négociés) ?**

- [ ] Oui, la loi contient des règles
- [ ] Oui, les règlements du Barreau contiennent des règles
- [x] Non, ni la loi ni les dispositions du Barreau ne contiennent de règles

**F.2**
**Commentaires utiles à l'interprétation des données indiquées dans ce chapitre :**
Under the Act of the Lawyers' Profession it is mandatory to agree on the legal fees to be paid by the client simultenaously with the acceptance of the mandate. Excessive legal fees (including excessive pactum de quota litis) may be subject to disciplinary procedures.

## 6. 3. Standards de qualité et procédures disciplinaires

### 6. 3. 1. Standards de qualité et procédures disciplinaires

**157) Des normes de qualité ont-elles été formulées pour les avocats ?**

- ( ) Oui
- (•) Non

Si oui, quels sont les critères de qualité utilisés?

**158) Si oui, qui est responsable de la formulation de ces normes de qualité:**

- [ ] le Barreau ?
- [ ] le législateur ?
- [ ] autre ?

Si "autre", veuillez préciser :

**159) Existe-t-il une possibilité de déposer une plainte concernant :**

- [x] la prestation de l'avocat ?
- [x] le montant des honoraires ?

Veuillez préciser :

Both are possible, clients are free to file a complaint with the local bar association against a lawyer objecting his/her performance or the fees. Judges and other participants of a procedure may also submit complaints against a lawyer regarding his/her inappropriate and/or objectable performance.

**160) Quelle est l'autorité compétente pour traiter des procédures disciplinaires?**

- [x] le juge
- [ ] le ministère de la justice
- [x] une instance professionnelle
- [ ] autre

Si autre, veuillez préciser :

First and second instance disciplinary procedures are handled by the terrirotial (county) and the national bar association. The decision of the second instance decision of the Hungarian (national) Bar Association may be challenged before the Court.
Proceeding Bodies
Section 42.
(1) A disciplinary tribunal formed in the first instance from the bar association's disciplinary committee and in the second instance from the disciplinary committee of the Hungarian Bar Association shall conduct the disciplinary proceedings against attorneys.
(2) The disciplinary tribunals of the first instance and the second instance shall consist of three members, with the exception specified in Subsection (3).
(3) The disciplinary tribunal of the second instance shall consist of five members if the disciplinary tribunal of the first instance imposed a penalty of disbarment or if the president of the bar association appeals the first decision by calling for disbarment.
(4) A tribunal appointed by the presidency of the Hungarian Bar Association shall proceed in disciplinary cases involving a president, vice president, secretary general, secretary or disciplinary commissioner of a bar association - including ordering a preliminary investigation.
The Disciplinary Commissioner and the Disciplinary High Commissioner
Section 43.
The disciplinary commissioner and the disciplinary high commissioner shall act on the instructions of the president of the bar association in proceedings of the first instance and on the instructions of the president of the Hungarian Bar Association in proceedings of the second instance.

Source: Act XI of 1998 on Attorneys at Law

**161) Procédures disciplinaires initiées à l'encontre des avocats. Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP. Si « autre », veuillez spécifier dans la boîte "commentaire" ci-dessous.**

**[Si la procédure disciplinaire est intentée sur la base de plusieurs manquements, veuillez ne compter ces procédures qu'une seule fois, pour le manquement principal.]**

| | Nombre total de procédures disciplinaires initiées (1 + 2 + 3 + 4) | 1. Faute déontologique | 2. Insuffisance professionnelle | 3. Délit pénal | 4. Autre |
|---|---|---|---|---|---|
| Nombre | 420 | NA | NA | 158 | 262 |

Commentaire :

**162) Sanctions prononcées à l'encontre des avocats. Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.**

**Si "autre", veuillez le spécifier dans la boîte "commentaire" ci-dessous. S'il existe une disparité entre le nombre de procédures disciplinaires initiées et le nombre de sanctions, veuillez indiquer les raisons dans la boîte "commentaire" ci-dessous.**

| | Nombre total des sanctions (1 + 2 + 3 + 4 + 5) | 1. Réprimande | 2. Suspension | 3. Révocation | 4. Amende | 5. Autre (par exemple exclusion du barreau) |
|---|---|---|---|---|---|---|
| Nombre | 428 | 68 | 135 | 44 | 181 | NA |

Commentaire :
Re: 2. Suspension - In 2010 there were 20 cases where the lawyer was suspended to practice until the end of the criminal procedure pending against him. In 115 cases the disciplinary procedure was suspended until the end of the criminal procedure. Under Hungarian law suspension is not a disciplinary sanction, but a procedural step. According to applicable regulations a lawyer may be suspended from practicing if there is a serious criminal procedure pending against him. The certain cases the disciplinary procedure may also be suspended until the end of the criminal procedure, in particular in situations where the disciplinary measure largely depends on finding or not finding the lawyer guilty.

Re: 3. Removal and 5. Other (e.g. disbarment) - under Hungarian law it is the same.

**F.3**
**Vous pouvez indiquer ci-dessous tout commentaire utile pour l'interprétation des données indiquées dans ce chapitre**

# 7. Mesures alternatives au règlement des litiges

## 7. 1. Mesures alternatives au règlement des litiges

### 7. 1. 1. Mesures alternatives au règlement des litiges

**163) Existe-t-il des procédures de médiation dans le système judiciaire ? Si non, veuillez aller à la question 168**
**----------**
**[Médiation judiciaire : dans ce type de médiation, il y a toujours l'intervention d'un juge ou d'un procureur qui facilite, conseille, décide ou/et approuve la procédure. Par exemple, dans des litiges civils ou des cas de divorce, les juges peuvent diriger les parties vers un médiateur s'ils estiment que des résultats plus satisfaisants peuvent être obtenus pour les deux parties. En matière pénale, le procureur peut se proposer en tant que médiateur entre un délinquant et une victime (par exemple pour établir un accord d'indemnisation).]**

- (●) Oui
- ( ) Non

**164) Veuillez préciser, par type d'affaires, l'organisation de la médiation judiciaire :**

| | Médiation annexée au tribunal | Médiateur privé | Instance publique (autre que le tribunal) | Juge | Procureur |
|---|---|---|---|---|---|
| Affaires civiles et commerciales | Oui | Oui | Oui | Non | Non |
| Affaires familiales (ex. divorce) | Oui | Oui | Oui | Non | Non |
| Affaires administratives | Non | Non | Non | Non | Non |
| Licenciements | Oui | Oui | Oui | Non | Non |
| Affaires pénales | Oui | Oui | Oui | Non | Non |

**165) Est-il possible de bénéficier de l'aide judicaire lors des procédures de médiation ?**

- (●) Oui
- ( ) Non

Si oui, veuillez préciser :

The rules governing the different types of proceedings set out clearly the system of payment of the costs to be borne by the parties. In certain cases the parties are free to agree on the fees and costs incurred in the proceedings, while in other cases the amounts are specified in legal regulations. In arbitration proceedings the court judgment sets the amount of costs and who is to bear them. In mediation proceedings the parties and the mediator are free to agree on the amounts of the fees and costs and who is to pay what; if the parties cannot agree on the latter, they pay them in equal proportions. In healthcare mediation proceedings the fees and costs involved are laid down by the law, but the parties are free to agree on how they are to be borne.

Since the entry into force on 1 April 2004 of Act LXXXX of 2003 on legal assistance, persons eligible for legal assistance under the Act can receive information from the legal assistance provider on the possibilities of settling a legal dispute out of court, or a document is drawn up that could help resolve the dispute. The legal adviser's fee is paid or advanced by the state according to the assisted person's income and property.

In healthcare mediation proceedings the parties are free to agree on who bears the costs. Where the parties cannot agree, the law specifies who should bear the costs in particular cases. As a general rule it provides that the general costs of the proceedings are to be split equally between the parties. A separate regulation sets out the amount of general and ancillary costs of the proceedings.

**166) Nombre de médiateurs accrédités ou enregistrés qui exercent la médiation judiciaire :**

1 185

**167) Nombre total de procédures de médiation judiciaire**
**----------**

**Veuillez indiquer la source dans la boîte "commentaire" ci-dessous:**

| | |
|---|---|
| Nombre total (1+2+3+4+5) | NA |
| 1. les affaires civiles | NA |
| 2. les affaires familiales | NA |
| 3. les affaires administratives | NAP |
| 4. les affaires de licenciements | NA |
| 5. les affaires pénales | NA |

Commentaire :
Ministry of Justice

**168) Votre système judiciaire connaît-il les formes d'ADR suivantes.**

**Si "autres mesures", veuillez le spécifier dans la boîte "commentaire" ci-dessous.**

| | |
|---|---|
| la médiation autre que la médiation judiciaire? | Oui |
| l'arbitrage? | Oui |
| la conciliation? | Oui |
| d'autres mesures alternatives au règlement des litiges? | Oui |

Commentaire :
Hungary's legal system provides for the better known types of alternative dispute resolution (ADR), so parties can try to settle disputes via arbitration or mediation instead of going to court.
In the Hungarian legal system, legal regulations at different levels - mainly Parliamentary Acts - govern alternative dispute resolution. They are set out below.
1. Arbitration procedure

Under Act LXXI of 1994 on Arbitration, the arbitration procedure can be used instead of court proceedings if (a) at least one of the parties is a person professionally engaged in economic activities to which the legal dispute relates (if this is not the case, ad hoc or permanent arbitration may also be decided on if allowed by the law); (b) if the parties can freely decide on the subject of the procedure; and (c) if arbitration proceedings were provided for by the parties in a written arbitration contract. The law may exclude the resolution of legal disputes by means of arbitration, and in certain types of civil actions arbitration cannot be used.

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Arbitrators must be independent and impartial; they may not be representatives of the parties. Arbitrators may not accept orders in the course of the proceedings and must maintain complete confidentiality in respect of the facts that come to their knowledge, even after the proceedings have ended. In the case of the permanent court of arbitration, the arbitrators must declare all this in writing on being elected/appointed.

Unless otherwise provided by the law, the permanent court of arbitration attached to the Hungarian Chamber of Commerce and Industry (based at 1055 Budapest, Kossuth tér 6-8) acts as the permanent court of arbitration in international cases.
2. Act I of 2004 on Sport establishing the Permanent Court of Arbitration for Sport

In certain sports-related cases and if the parties so request, the Permanent Court of Arbitration for Sport endeavours to bring about agreement. The cases concerned are primarily legal disputes between sport associations and their members, disputes between sport association members regarding their sports association-related activities, and disputes between sport associations/organisations or sportspeople and sports experts. The Permanent Court of Arbitration for Sport operates under the authority of the National Sports Association. The Presidium elects its President and at least 15 members for a term of four years from among lawyers with special legal qualifications and at least five years' legal practice in the field of sports. The Presidium elects two members of the Permanent Court of Arbitration for Sports upon the recommendation of the Hungarian Olympic Committee.

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With the exceptions provided for by the law, the provisions of Act LXXI of 1994 on Arbitration apply to the procedure followed by the Permanent Court of Arbitration for Sports.

3. Mediation

Under Act LV of 2002 on Mediation, the parties (natural persons, legal persons, business entities without legal personality, other organisations) to a civil dispute connected with their personal and pecuniary rights may, if they so agree and if the law does not limit their right of disposition, use a mediation procedure to seek resolution. They may initiate such a procedure by calling on the services of a mediator. The Act specifies the range of civil legal actions in which mediation is not possible and where its provisions cannot apply to mediation and conciliation proceedings governed by other acts or to mediation in arbitration proceedings. The Ministry of Justice publishes the register of mediators on its website: www.im.hu.
4. Mediation in healthcare

Under Act CXVI of 2000 on Mediation in Healthcare, a mediation procedure may be used to achieve the out-of-court resolution of legal disputes concerning service provision by healthcare providers to patients and to ensure fast and effective enforcement of the parties' rights. The parties must submit their mediation request to the regional chamber of judicial experts located nearest to the patient's home or to the place where the healthcare services concerned are provided. The healthcare provider must make the register of regional chambers of judicial experts public in an accessible manner. The register of healthcare mediators is kept by the Hungarian Chamber of Judicial Experts (1027 Budapest, Bem rakpart 33-34., I. 122.).

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5. Mediation in matters of child protection

Under the 2003 amendment to Decree No. 149/1997 (IX. 10.) Korm. on child welfare agencies, child protection and child welfare administration, mediation in child protection matters was introduced from 1 January 2005 in cases where the parents or other persons authorised to maintain relations cannot agree on the manner or time of contact. Mediation in child protection matters can be initiated on the basis of a joint application by the parties to a child protection mediator. The register of child protection mediators is kept by the National Institute of Family and Social Policy. The register can be inspected in the official premises of the Court of Guardians and of the child welfare services.
6. Conciliatory corporate proceedings

The Labour Mediation and Arbitration Service established under Act XXII of 1992 on the Labour Code serves primarily to resolve collective labour-related disputes. This body carries out three activities: conciliation, mediation and arbitration. The body's mediation services can also be used to resolve private labour disputes, but the law does not make this compulsory for the parties concerned.
To enforce consumer rights, Act CLV of 1997 on Consumer Protection established conciliation bodies attached to the regional economic chambers. The conciliation bodies deal primarily with the out-of-court settlement of consumer disputes relating to the application of rules on the quality and safety of goods and services and product liability, and to the conclusion and implementation of contracts. The aim of the Conciliation Body procedure is to settle disputes between consumers and undertakings by agreement, and failing this to reach a ruling in the interests of enforcing consumers' rights quickly, effectively and simply. The bodies have no jurisdiction in disputes for which a rule establishes the competence of some other authority. Conciliation proceedings are initiated at the request of the consumer or, in the case of more than one consumer and with the authorisation of those concerned, of the civil organisation representing consumer interests.

**G.1**
**Vous pouvez indiquer ci-dessous :**
**- tout commentaire utile pour l'interprétation des données indiquées dans ce chapitre**
**- les caractéristiques de votre système de mesures alternatives au règlement des litiges et les réformes majeures mises en œuvre au cours des deux dernières années**

Mediation in civil cases
Act LV. of 2002 on mediation covers civil disputes, but excludes mediation in libel proceedings, the review of administrative decisions, guardianship proceedings, termination of parental responsibility, execution procedures, procedures for the establishment of paternity, and cases initiated pursuant to a claim of unconstitutionality.
Recourse to mediation is voluntary, but has certain advantages in relation to the Act on Duties and the Code of Civil Procedure. The law as it stands does not make it compulsory for parties to use alternative dispute resolution mechanisms to settle disputes. Mediation is not free of charge; payment is subject to agreement between the mediator and the parties.
Under the Mediation Act, on termination of the mediation proceedings the parties may bring their dispute to court, since agreements made in mediation proceedings are not officially enforceable.
If the parties participate in mediation after the first hearing and the agreement reached is ratified by the presiding judge only half of the applicable duties are payable.
If the parties participate in mediation prior to the civil proceedings only an amount of duty - reduced by the mediator's fee+ VAT, but by not more than 50.000 HUF - must be paid, which cannot be less than 50% of the original amount of duty.
According to Directive 2008/52/EC, it must be possible to request that the content of a written agreement resulting from mediation be made enforceable. It is possible for parties to make the content of their agreement resulting from mediation enforceable. They can request the court or a public notary to incorporate the agreement into a judgment or an authentic instrument, which can be enforced afterwards.

According to Act 2002 LV. on Mediation the Ministry of Public Administration and Justice is responsible for the registration of mediators and of legal persons employing mediators.
A register of mediators and legal persons employing mediators is available on the website of the Ministry of Public Administration and Justice. Registered mediator can be any natural or legal person, who fulfils the obligations (concerning university degree, mediation training etc.) set up by the law.
General information is available for users and it is possible to make separate searches for mediators based on name, language skills and county of operation. Where legal persons are concerned, searches are based on name, county and abbreviated name. The same website provides registration forms for mediators and legal persons employing mediators.
There is no national code of conduct for mediators, but the majority of mediation associations follow the European Code of Conduct for Mediators.
There are around 1.500-2.000 civil mediation cases each year.
1. Mediation in healthcare
Other fields of using mediation or ADR
Under Act CXVI of 2000 on Mediation in Healthcare, a mediation procedure may be used to achieve the out-of-court resolution of legal disputes concerning service provision by healthcare providers to patients and to ensure fast and effective enforcement of the parties' rights. The parties must submit their mediation request to the regional chamber of judicial experts located nearest to the patient's home or to the place where the healthcare services concerned are provided. The healthcare provider must make the register of regional chambers of judicial experts public in an accessible manner. The register of healthcare mediators is kept by the Hungarian Chamber of Judicial Experts.
2. Mediation in matters of child protection
Under the 2003 amendment to Decree No. 149/1997 (IX. 10.) Korm. on child welfare agencies, child protection and child welfare administration, mediation in child protection matters was introduced from 1 January 2005 in cases where the parents or other persons authorised to maintain relations cannot agree on the manner or time of contact. Mediation in child protection matters can be initiated on the basis of a joint application by the parties to a child protection mediator. The register of child protection mediators is kept by the National Institute of Family and Social Policy.
http://www.kapcsolatugyeletek.egalnet.hu/object.2E8DB85C-FD87-4AB7-98FA-0B64CE1B5C15.ivy
3. Conciliatory corporate proceedings
a. The Labour Mediation and Arbitration Service established under Act XXII of 1992 on the Labour Code serves primarily to resolve collective labour-related disputes. This body carries out three activities: conciliation, mediation and arbitration. The body's mediation services can also be used to resolve private labour disputes, but the law does not make this compulsory for the parties concerned.
http://www.tpk.org.hu/engine.aspx?page=tpk_MKDSZ_A_szervezetrol (in Hungarian)
b. To enforce consumer rights, Act CLV of 1997 on Consumer Protection established conciliation bodies attached to the regional economic chambers. The conciliation bodies deal primarily with the out-of-court settlement of consumer disputes relating to the application of rules on the quality and safety of goods and services and product liability, and to the conclusion and implementation of contracts. The aim of the Conciliation Body procedure is to settle disputes between consumers and undertakings by agreement, and failing this to reach a ruling in the interests of enforcing consumers' rights quickly, effectively and simply. The bodies have no jurisdiction in disputes for which a rule establishes the competence of some other authority. Conciliation proceedings are initiated at the request of the consumer or, in the case of more than one consumer and with the authorisation of those concerned, of the civil organisation representing consumer interests.
4. Victim-offender mediation
The introduction of victim-offender mediation in 2007 (Act CXXIII. Of 2006) achieves the goals of restorative justice. It can be applied in criminal procedures dealing with certain offences against the person, property or traffic offences if the crime is to be punished with no more than five years' imprisonment, and the offender has made a confession during the criminal investigation. In Hungary, it is the prosecutor or the judge who can send the case to mediation, and specially trained probation officers act as mediators. If the offender had fulfilled the agreement reached in the mediation, namely had restored the harms caused for the victim, the criminal procedure can be terminated. This type of mediation is free of charge for the parties. Number of cases in year 2007 were 2.451 and more than 4.000 in year 2011.
www.kimisz.gov.hu
5. Mediation in schools
In the area of education one of the current challenges Hungary (as well as most EU countries) face is how to prevent and handle violence (Violation of rules) in school. One of Mediation Service for Education (MSE)'s priority aims is to enhance cooperation between institutions dealing with children to prevent violence in schools. According to MSE's experiences there is not sufficient co-operation between the participants of the education, and the infringements, inattentions, conflicts in the schools lead to confidence deficiency and distrust between school citizens.
MSE deals with mediation, conciliation, giving information about educational rights and educational conflict-solving methods.
MSE was established in 2004 by the Ministry of Education in order to promote alternative dispute resolution for the parties of education giving a chance of conflict solving in a more effective, more efficient way for free. The control over the operation of MSE is exercised by the Minister of Education letting untouched the autonomy and independency of MSE.
Now MSE is a small organizational unit within the Hungarian Institute for Educational Research and Development with a special status and autonomy, in charge of helping the participants of education in their conflicts with advice and mediators. Our mediators are impartial, unbiased and their actions are unaffected by political interests.
By now in Hungary it has become an educational right (declared by the Educational Act and the Act of Higher Education) to turn to the MSE for help in conflict-solving in schools/universities/colleges. The MSE can delegate a mediator based on the common will of the persons affected by the conflict, and the mediator is trying to help them

to reach consensus.
http://www.ofi.hu/oksz-ofi-hu-090928/english
Non-governmental association that work in the area of mediation is - among others - the National Mediation Association

**Veuillez indiquer les sources des réponses à la question 166**

National Mediation Association (NMA)

# 8. Exécution des décisions de justice

## 8. 1. Exécution des décisions civiles

### 8. 1. 1. Fonctionnement

**169) Existe-t-il dans votre système judiciaire des agents d'exécution ?**

- (●) Oui
- ( ) Non

**170) Nombre d'agents d'exécution**

183

**171) Les agents d'exécution sont-ils (plusieurs choix possibles):**

- [ ] des juges ?
- [x] des huissiers de justice exerçant en profession libérale réglementée par les autorités publiques ?
- [ ] des huissiers de justice attachés à une institution publique ?
- [ ] d'autres agents d'exécutions ?

Veuillez préciser leur statut et leurs compétences (pouvoirs):

Sont nommés par le Mministre de la Justice. Professionnels indépendants, ils exercent sous une forme libérale. La profession et son accès sont strictement réglementés. Ils ont le monopole de l'exécution des décisions de justice et autres titres en forme exécutoire. Ils peuvent également procéder à la signification des actes, réaliser des constatations, procéder au recouvrement amiable et judiciaire de créances, donner des conseils juridiques et réaliser des ventes volontaires ou forcées.

**172) Existe-t-il une formation initiale ou un examen spécifique pour accéder à la profession d'agent d'exécution ?**

- (●) Oui
- ( ) Non

**173) La profession d'agent d'exécution est-elle organisée par :**

- [x] une instance nationale ?
- [ ] une instance régionale ?
- [ ] une instance locale ?
- [ ] NAP (la profession n'est pas organisée)

**174) Pour le justiciable, existe-t-il une transparence sur le coût prévisible des frais d'exécution ?**

- [x] Oui
- [ ] Non

**175) Est-ce que les frais d'exécution sont librement négociés ?**

- [ ] Oui
- [x] Non

**176) Est-ce que la loi stipule des règles sur les frais d'exécution (même s'ils sont librement négociés) ?**

- [x] Oui

☐ Non

**Veuillez indiquer la source de la réponse à la question 170 :**

Official register maintained by the Hungarian Chamber of Judicial Officers (i.e. bailiffs)

183 bailiffs and 11 permanent substitutes
A permanent substitute may be appointed, if
a) the bailiff's office is vacant;
b) the bailiff has been suspended from his office;
c) the bailiff is absent for a period of up to one year from the time of appointment.

### 8. 1. 2. Efficacité des services d'exécution

**177) Existe-t-il un système de supervision et de contrôle de l'activité des agents d'exécution ?**

◉ Oui
○ Non

**178) Quelle est l'autorité chargée de superviser et de contrôler les agents d'exécution :**

☐ une instance professionnelle ?
☐ le juge ?
☑ le ministère de la justice ?
☐ le procureur ?
☐ autre ?

Si autre, veuillez préciser :

The Hungarian Chamber of Judicial Officers is in charge of supervising the activities of enforcement agents. The supervising authority of the Chamber is the Ministry of Justice. Certain legal remedies are provided by the courts.

**179) Des normes de qualité sont-elles formulées pour les agents d'exécution ?**

◉ Oui
○ Non

Si oui, quels sont les critères de qualités utilisés ?

Besides legislation, there are recommendations and directives issued by the Chamber's bodies on financial management and filing of enforcement cases.

**180) Qui est chargé de formuler ces normes de qualité ?**

☑ un organisme professionnel
☐ le juge
☐ Ministère de la Justice
☐ autre

Si "autre", veuillez préciser :

**181) Disposez-vous d'un mécanisme spécifique pour l'exécution des décisions de justice rendues contre des autorités publiques, y compris pour assurer le suivi de cette exécution?**

○ Oui
◉ Non

Si oui, veuillez préciser :

**182) Disposez-vous d'un système de contrôle de l'exécution ?**

- (•) Oui
- ( ) Non

Si oui, veuillez préciser :

Being the professional body of enforcement agents, the Hungarian Chamber of Judicial Officers compiles quarterly statistics on enforcement cases.

**183) Quelles sont les principales plaintes des usagers concernant les procédures d'exécution ?**

**Veuillez n'en indiquer que 3 au maximum**

- [x] absence de toute exécution ?
- [ ] non exécution des décisions judiciaires rendues contre des autorités publiques ?
- [ ] manque d'information ?
- [x] durée excessive ?
- [ ] pratiques illégales ?
- [ ] supervision insuffisante ?
- [x] coût excessif ?
- [ ] autre ?

Si autre, veuillez préciser:

**184) Votre pays a-t-il préparé ou adopté des mesures concrètes pour changer la situation concernant l'exécution des décisions de justice – en particulier les décisions rendues contre les autorités publiques?**

- (•) Oui
- ( ) Non

Si oui, veuillez préciser :

Some amendments of law have been introduced, regarding moratorium on evictions, and the rules for tenders for selecting new bailiffs, but none of these are related to decisions against public authorities.

**185) Existe-t-il un système mesurant la durée des procédures d'exécution :**

- [x] pour les affaires civiles ?
- [ ] pour les affaires administratives ?

**186) Pour un jugement concernant un recouvrement de créances, pouvez-vous estimer le délai de notification aux parties habitant dans la ville du siège de la juridiction ?**

- [ ] entre 1 et 5 jours
- [x] entre 6 et 10 jours
- [ ] entre 11 et 30 jours
- [ ] plus

Si plus, veuillez préciser

**187) Nombre de procédures disciplinaires initiées à l'encontre des agents d'exécution. Si "autre", veuillez le préciser dans la boîte "commentaire" ci-dessous.**

**[Si la procédure disciplinaire est intentée sur la base de plusieurs manquements, veuillez ne compter ces procédures qu'une seule fois, pour le manquement principal.]**

Nombre total de procédures disciplinaires

| | | |
|---|---|---|
| initiées (1+2+3+4) | ☑ nombre : | 7 |
| 1. pour faute déontologique | ☑ nombre : | 0 |
| 2. pour insuffisance professionnelle | ☑ nombre : | 3 |
| 3. pour délit pénal | ☑ nombre : | 1 |
| 4. Autre | ☑ nombre : | 3 |

Commentaire :
Other: conflict of interest (1x); violating professional obligations (2x)

**188) Nombre de sanctions prononcées à l'encontre des agents d'exécution.**

**Si "autre", veuillez le spécifier dans la boîte "commentaire" ci-dessous. S'il existe une disparité entre le nombre de procédures disciplinaires initiées et le nombre de sanctions, veuillez indiquer les raisons dans la boîte "commentaire" ci-dessous.**

| | | |
|---|---|---|
| Nombre total de sanctions (1+2+3+4+5) | ☑ nombre : | 7 |
| 1. Réprimande | ☑ nombre : | 0 |
| 2. Suspension | ☑ nombre : | 4 |
| 3. Révocation | ☑ nombre : | 1 |
| 4. Amende | ☑ nombre : | 2 |
| 5. Autre | ☑ nombre : | 0 |

Commentaire :

**H.1**
**Vous pouvez indiquer ci-dessous :**
**- tout commentaire utile pour l'interprétation des données indiquées dans ce chapitre**
**- les caractéristiques de votre système d'exécution des décisions civiles et les réformes majeures mises en œuvre au cours des deux dernières années**

**Veuillez indiquer les sources pour les réponses aux questions 186, 187 et 188 :**
Official register maintained by the Hungarian Chamber of Judicial Officers

## 8. 2. Exécution des décisions pénales

### 8. 2. 1. Exécution des décisions pénales

**189) Qui est chargé de l'exécution des décisions pénales? (plusieurs options possibles)**

- ☑ Juge
- ☐ Procureur
- ☑ Services pénitentiaire et de probation
- ☐ Autre autorité

Veuillez préciser ses fonctions et compétences (ex. fonctions d'initiative ou de contrôle). Si "autre autorité", veuillez préciser :
The judge responsible for the execution of sentences has both initiative and control functions.

**190) En matière d'amendes prononcées par une juridiction pénale, existe-t-il des études permettant d'évaluer le taux de recouvrement effectif ?**

- ○ Oui
- ◉ Non

**191) Si oui, quel est le taux de recouvrement ?**

- ☐ 80-100%
- ☐ 50-79%
- ☐ moins de 50%
- ☐ ne peut être estimé

Veuillez indiquer la source ayant permis de répondre à cette question:

**H.2**
**Vous pouvez indiquer ci-dessous :**
**- tout commentaire utile pour l'interprétation des données indiquées dans ce chapitre**
**- les caractéristiques de votre système d'exécution des décisions pénales et les réformes majeures mises en œuvre au cours des deux dernières années**

# 9. Notaires

## 9. 1. Notaires

### 9. 1. 1. Notaires

**192) Existe-t-il des notaires dans votre pays ? Si non allez à la question 197**

- (●) Oui
- ( ) Non

**193) Les notaires ont-ils un statut :**
**----------**
**Si "autre", veuillez le préciser dans la boîte "commentaire" ci-dessous.**

| | | |
|---|---|---|
| privé (sans contrôle d'une autorité publique)? | ☐ nombre | |
| de profession libérale réglementée par les pouvoirs publics ? | ☑ nombre | 315 |
| public? | ☐ nombre | |
| autre ? | ☐ nombre | |

Commentaire :

**194) Le notaire exerce-t-il une fonction (plusieurs réponses possibles):**

- ☑ dans le cadre de la procédure civile ?
- ☐ dans le domaine du conseil juridique ?
- ☑ pour authentifier les actes/certificats ?
- ☑ autre ?

Si "autre", veuillez préciser :
-issuing order for payment
-issuing European order for payment
-keeping a register of mortgages imposed on movables
-keeping a register of civil partnerships
-keeping a register of wills
-giving impartial information to the parties about their rights and obligations, similarly to the court

**195) Existe-t-il un système de supervision et de contrôle de l'activité des notaires ?**

- (●) Oui
- ( ) Non

**196) Quelle est l'autorité chargée de superviser et de contrôler les notaires :**

- ☐ une instance professionnelle ?
- ☐ le juge ?
- ☐ le ministère de la justice ?
- ☐ le procureur ?
- ☑ autre ?

Si "autre", veuillez préciser :
the president of the county court concerning the legality of the notary's actions

**I.1**
**Vous pouvez indiquer ci-dessous :**
**- tout commentaire utile pour l'interprétation des données indiquées dans ce chapitre**
**- les caractéristiques de votre système notarial et les réformes majeures mises en œuvre au cours des**

**deux dernières années**
Act XLI of 1991 on notaries public

# 10. Interprètes judiciaires

## 10. 1. Interprètes judiciaires

### 10. 1. 1. Interprètes judiciaires

**197) Le titre d'interprète judiciaire est-il protégé?**

- (●) Oui
- ( ) Non

**198) La fonction d'interprète judiciaire est-elle régulée par des normes juridiques?**

- ( ) Oui
- (●) Non

**199) Nombre d'interprètes judiciaires accrédités ou enregistrés :**

NA

**200) Existe-t-il des critères relatifs à la qualité de l'interprétation dans les tribunaux ?**

- ( ) Oui
- (●) Non

Si oui, veuillez préciser (par exemple avoir passé avec succès un examen particulier) :

**201) Les tribunaux sont-ils responsables de la sélection des interprètes judiciaires ? Si non, veuillez indiquer dans la boîte "commentaire" ci-dessous quelle autorité est responsable de la sélection.**

- Oui [ ] pour les recruter et/ou les nommer pour un mandat d'une certaine durée
- Oui [ ] pour les recruter sur une base ad hoc en fonction des besoins d'une procédure spécifique
- \- [x] Non

Commentaire :

**J.1**
**Vous pouvez indiquer tout commentaire utile à l'interprétation des données indiquées dans ce chapitre**

**Veuillez indiquer la source pour répondre à la question 199 :**

# 11. Experts judiciaires

## 11. 1. Experts judiciaires

### 11. 1. 1. Experts judiciaires

**202) Dans votre système, les experts interviennent-ils durant la procédure judiciaire comme (choix multiple possible):**

- [x] "Experts témoins" à qui les parties demandent d'apporter leur expertise pour soutenir leur argumentation
- [x] "Experts techniques" qui mettent à la disposition du tribunal leurs connaissances scientifiques et techniques sur des questions de fait
- [ ] "Experts juristes" qui peuvent être consultés par le juge pour des questions de droit spécifiques ou qui ont pour tâche de soutenir le juge dans la préparation du travail judiciaire (mais qui ne participent pas au jugement)

**203) Le titre d'expert judiciaire est-il protégé ?**

- (•) Oui
- ( ) Non

**204) La fonction d'expert judiciaire est-elle régulée par des normes juridiques?**

- (•) Oui
- ( ) Non

**205) Nombre d'experts judiciaires (experts techniques) accrédités ou enregistrés.**

516

**206) Existe-t-il des critères relatifs à l'exercice de la fonction d'expert judiciaire dans le cadre des procédures judiciaires ?**

- (•) Oui
- ( ) Non

Si oui, veuillez préciser, notamment les délais impartis pour présenter un rapport technique au juge :

The time limit for providing the technical report falls within the core competence of the trial court, it is not determined by the law.

**207) Les tribunaux sont-ils responsables de la sélection des experts judiciaires ?**

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**Si non, veuillez indiquer dans la boîte "commentaire" ci-dessous quelle autorité est responsable de la sélection des experts judiciaires?**

- Oui [ ] pour les recruter et/ou la nommer pour un mandat d'une certaine durée
- Oui [ ] pour les recruter sur une base ad hoc en fonction des besoins d'une procédure spécifique
- Non [x].

Commentaire :

C'est le Ministère de la Justice qui est responsable de la sélection des experts judiciaires.

**K.1**

**Vous pouvez indiquer tout commentaire utile à l'interprétation des données indiquées dans ce chapitre**

**Veuillez indiquer la source pour répondre à la question 205 :**

Ministry of Justice

# 12. Réformes envisagées

## 12. 1. Réformes envisagées

### 12. 1. 1. Réformes

**208) Veuillez fournir des informations sur le débat actuel dans votre pays sur le fonctionnement de la justice. Des réformes sont-elles en préparation ou envisagées. Si possible, respectez les catégories suivantes:**
**1. Programmes de réforme généraux**
**2. Budget**
**3. Tribunaux et Ministère Public (par exemple pouvoir et organisation, modifications structurelles -par exemple la réduction du nombre des tribunaux-, gestion et méthodes de travail, technologies de l'information, arriéré judiciaire et efficacité, frais de justice, rénovation et construction de nouveaux bâtiments)**
**4. Conseil supérieur de la Magistrature**
**5. Professionnels de la justice (juges, procureurs, avocats, notaires, agents d'exécution, etc.) : organisation, formation, etc.**
**6. Réformes en matière civile, pénale et administrative, de conventions internationales et d'actes de coopération**
**7. Exécution des décisions de justice**
**8. Médiation et autres ADR**
**9. Lutte contrer la criminalité et système pénitentiaire**
**10. Autres**

Au mois d'avril le Parlement a adopté une nouvelle constitution nommée Loi fondamentale. Sur la base de cette loi fondamentale ont été adopté plusieures nouvelles lois, ainsi qu'une législation sur l'organisation des tribunaux qui doit entrer en vigueur le 1er janvier 2012, vont avoir pour effet de refonder le système de supervision de l'appareil judiciaire national.

Le Conseil National de la Justice, l'organe autonome de l'administration de la justice qui se constitue de 15 membres et dont le Président est en meme temps le Président de la Cour supreme, sera supprimé. La présidence du CNJ et celle de la Cour supreme sera séparée. Pour l'administration de la justice l'Office National de la Justice sera établie dont le président sera élu par le Parlement avec une majorité de 2/3, pour un mandat de 9 ans. The changes make a clear separation between professional and administrative management. The advantage of the new administrative model is that professional and administrative remits will not overlap or conflict with each other: the President of the Curia will be responsible for professional matters, and the President of the National Courts Authority (OBH) will decide on administrative questions. The internal organisation of tasks will not affect the independence of judges, however.

La Cour suprême hongroise s'appellera dès le 1er janvier 2012 Curia et son Président sera élu par le Parlement avec une majorité de 2/3, pour un mandat de 9 ans.

L'âge de départ à la retraite des juges et des procureurs sera abaissé de 70 ans à l'age légale de la retraite qui est 65 ans, mais actuellement est encore 62 ans et, graduellement sera augmenté jusque 65 ans dans les années a venir.

La formation initiale des juges et des procureurs sera assurée par le Ministere de l'administration publique et de la justice dans une seule établissement, celle qui dépend jusqu'a la fin de 2011 du Conseil National de la Justice, mais a partir de 1er janvier 2012 sera soummis au Ministere de l'administration publique et de la justice.

Le Procureur général est élu également par le Parlement avec une majorité de 2/3, pour un mandat de 9 ans.